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CUMULATIVE SUPPLEMENT
TO
MISSISSIPPI CODE
1972 ANNOTATED

Issued September 2013

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2013 REGULAR SESSION
AND 1ST AND 2ND EXTRAORDINARY SESSIONS**

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2013 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal 2nd
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2013

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

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57-100-3. Quarterly incentive payments to qualified business or industry; duration of payments; application; job requirements; notification of State Tax Commission.

57-100-5. Creation of Existing Industry Withholding Rebate Fund; purpose.

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ANNOTATED

VOLUME THIRTEEN

TITLE 55

PARKS AND RECREATION

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CHAPTER 3

State Parks and Forests

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POWERS AND DUTIES OF MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS

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§ 55-3-33. General powers and duties of department.

(1) The Mississippi Department of Wildlife, Fisheries and Parks may:

(a) Take charge and have full jurisdiction and control over all state parks, which parks shall be operated for the purpose of providing outdoor recreational activities and enjoyment for the citizens of the State of Mississippi and for the purpose of attracting visitors to the state.

(b) Set up a uniform accounting procedure for the state parks and prescribe the manner in which books, records and accounts shall be kept, which procedure shall account for all monies taken in and expended by the various parks and shall provide for periodic audits of such books.

(c) Accept gifts, bequests of money or other property, real or personal, to be used for the purpose of advancing the recreation and conservation interests in state parks. The department is authorized, subject to approval

by the State Legislature, to purchase property, real or personal, to be used for state park purposes.

(d) Contract with the State Transportation Commission, any municipality or board of supervisors of the state for locating, constructing and maintaining roads and other improvements in state parks and for payment of a part of the costs thereof; however, no county or municipality more than twenty-five (25) miles distant from a state park may contract for, or do, or pay for any such work for a state park other than the International Gardens of Mississippi. Any county or municipality authorized to assist financially under the provisions of Sections 55-3-31 through 55-3-51 is authorized, in the discretion of its respective governing authority, to set aside, appropriate and expend monies from the General Fund for the purpose of defraying such expense after a mandatory election is held on the question within the county or municipality.

(e) Designate employees as peace officers with power to make arrests for infraction of the rules and regulations of the department. Such officers are authorized to carry weapons and to enforce the laws of the State of Mississippi within the confines of a state park.

(f) Enforce and delegate the responsibility to enforce all reasonable rules and regulations governing the occupancy and use of lands and waters in state parks under its jurisdiction, supply recreational and conservation facilities and charge fees for the use of same; review all rates and charges for facilities and accommodations furnished at the various state parks annually, making such charges as are justified; and establish fees for entrance to state parks.

(g) To periodically establish a discounted fee or fees for the entry and use of selected state parks and recreational facilities. The discounted fee or fees shall only be used for the purpose or purposes of marketing and promotion to increase the patronage and revenue of those selected parks and facilities. The discounted fee or fees shall not be considered a donation of state property.

Each park shall retain from revenues generated therein, a sum sufficient to pay necessary expenses of operation, but in no event to be less than seventy-five percent (75%) of such revenues.

(2) The department shall have the authority to lease to any entity, sell and convey or otherwise transfer to any county or municipality, or close any state park or historical site within its jurisdiction which received a general fund subsidy in fiscal year 1985 in excess of Two Dollars (\$2.00) per visitor to such state park or historical site; provided, however, that this authority shall not include the authority to sell, lease or convey any park that was not in operation under the jurisdiction of the department for a full fiscal year prior to fiscal year 1986.

(3) The department may execute agreements with rails-to-trails and recreational districts by which the department will assume responsibility for the operation and maintenance of trails developed under Sections 55-25-1 through 55-25-15.

(4)(a) The department may contract with the electric public utility with a certificate of public convenience and necessity to serve the area where a state park is located for the transfer of ownership of the electrical infrastructure in the state park to that electric public utility.

(b) If the electric public utility enters into an agreement for the operation and maintenance of electrical facilities in a state park, the electric public utility may perform any upgrades to the electrical infrastructure of the park that are necessary for the electrical infrastructure to be in compliance with the electric public utility standards. The electric public utility may assess the costs of the upgrades to the department upon the terms and conditions agreed to by the department and the electric public utility.

(c) The department may contract with the electric public utility with the certificate of public convenience and necessity to serve the area for the erection, construction, maintenance, operation and control of electric distribution substations, electric transmission lines, electrical appurtenances, electrical appliances or electrical equipment necessary or useful in the operation or distribution of electric power or energy in the state park.

(d) Any agreement entered into by the department and an electric public utility under this subsection is exempt from the public purchasing requirements under Section 31-7-13.

SOURCES: Codes, 1942, § 5958-02; Laws, 1971, ch. 492, § 2; Laws, 1972, ch. 340, § 3; Laws, 1986, ch. 400, § 41; Laws, 1986, ch. 500, § 42; Laws, 1989, ch. 544, § 123; Laws, 1994, ch. 574, § 9; Laws, 2010, ch. 367, § 1; Laws, 2013, ch. 466, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2010 amendment added (1)(g).

The 2013 amendment substituted “may” for “shall have the power and authority, and it shall be its duty to” at the end of (1); and added (4).

§ 55-3-48. Pilot program to lease lands within certain state parks for commercial development; State Park Lease Development Endowment Fund created; State Parks Pilot Program Advisory Council created; composition.

(1) For the purposes of this section, the following terms shall have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) “Commission” means the Mississippi Commission on Wildlife, Fisheries and Parks.

(b) “Department” means the Mississippi Department of Wildlife, Fisheries and Parks.

(2) The Mississippi Department of Wildlife, Fisheries and Parks, with the approval of the Commission on Wildlife, Fisheries and Parks, may conduct a pilot program to lease to any person, private entity or governmental entity for commercial development on United States Corp of Engineer’s lands within the

following state parks: George P. Cossar, Hugh White and John W. Kyle. The commission shall establish criteria for identifying such land or property.

(3)(a) Before approving any land or property located within any of the three (3) state parks for commercial lease and development, the commission must make an affirmative finding and enter upon its official minutes a statement that the development of the land will not be incompatible with the outdoor recreational purposes and opportunities existing at the park or inaccessible to the general public.

(b) The lease may be for a term and upon conditions as the commission may deem to be in the best interest of the state.

(4) If any lease executed under the provisions of this section results in a person being terminated or removed from employment with the department, then the department shall give preference to hiring that person when filling vacant or new employment positions elsewhere within the department.

(5) A developer or lessee may sublease such portions of his lease as may be necessary for the development of a project. A sublease shall be an assignable contract and shall be for commercial purposes, as approved by the commission; however, a sublease may not be for a term in excess of the remaining term of the developer's lease. Each sublease from the developer shall contain an option for the sublessee to renew or renegotiate the lease directly with the department, at any time following ten (10) years after the beginning date of any sublease from the developer.

(6) Rental payments due under any lease executed under this section shall be paid to the department and shall be deposited into the State Park Lease Development Endowment Fund created in this section.

(7) Any construction occurring on land or property leased under this section must fully comply with all applicable state laws, rules and regulations, and any local building codes and zoning ordinances. Development plans and construction must have the prior approval of the commission.

(8) The department, with approval of the commission, may enter into contracts or agreements with agencies of the United States government, municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any services, facilities, utilities or commodities that any development project under the provisions of this section may require. The contract or agreement may be assigned to the developer or lessee, may be upon any terms that conform to the provisions of this section, may be for any time as the parties may agree, and may provide that the contract or agreement shall continue in effect until assigned to, or renegotiated by, a sublessee of the developer or lessee.

(9) There is created in the State Treasury a special fund to be known as the "State Park Lease Development Endowment Fund." The fund shall consist of all monies required to be deposited therein under the provisions of this section. The principal of the fund shall remain inviolate and shall be invested as provided by law. Interest and income derived from investment of the principal of the fund may be expended by the Mississippi Department of Wildlife, Fisheries and Parks, upon appropriation by the Legislature, only for

the purpose of constructing, reconstructing, repairing, renovating or making improvements to real and personal property and facilities located within the state parks. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

(10)(a) There is created a State Parks Pilot Program Advisory Council to the Commission on Wildlife, Fisheries and Parks to advise and assist the commission on the selection of any developers, development plans and approval of leases for development of the three (3) state parks under the provisions of this section with any person, private or governmental entity. Members of the advisory council shall have no veto authority, and shall serve only as ex officio members of the commission.

(b) The advisory council shall consist of three (3) members, one (1) member each to be selected and appointed by the Boards of Supervisors for Grenada, Panola and Yalobusha Counties, representative of each county in which a pilot-program park is located. The terms of the members of the advisory council shall run concurrently with the term of the appointing board of supervisors. In making its appointment to the advisory council, the boards of supervisors shall be limited to appointing an individual who is a member of the following organizations:

- (i) A flood control/navigation or upper levee board association;
- (ii) A statewide soil, water and conservation organization;
- (iii) A statewide recreational organization;
- (iv) A statewide garden club association; or
- (v) A tourism and economic development association.

SOURCES: Laws, 2011, ch. 521, § 1, eff from and after July 1, 2011.

CHAPTER 9

County and Municipal Facilities

Recreational Districts in Certain Counties and Municipalities 55-9-21

RECREATIONAL DISTRICTS IN CERTAIN COUNTIES AND MUNICIPALITIES

SEC.
55-9-31. Appointment, bond, terms of office and compensation of members of project board of commissioners; board authority.

§ 55-9-31. Appointment, bond, terms of office and compensation of members of project board of commissioners; board authority.

The project shall be in charge of a board of commissioners, not less than five (5) in number, nor more than fifteen (15), all of whom shall be adult resident citizens of the State of Mississippi, and each of whose terms shall be

for a period of four (4) years, and who shall be appointed by the political subdivision or subdivisions constituting the recreational district. The board shall be in charge of all business and official affairs of such project, and shall be answerable only to the governing authorities of the political subdivision or subdivisions forming the recreational district. No member of any board of commissioners of any project shall be either interested directly or indirectly in any commercial enterprise operating thereon.

Such board shall have the authority to do and perform the following, but shall not be limited thereto: lease facilities or tracts of realty in said district for commercial enterprises, or other educational, athletic, cultural or recreational pursuits, to acquire by lease, purchase or gift additional realty for the project, to employ personnel in the operation and management of said project, and, in general, to have charge and control of all of the affairs and activities within said project. No land within said project may be leased for a period of longer than sixty (60) years.

Each member of the board shall be required by the political subdivision or subdivisions forming such recreational district to give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty not less than Fifty Thousand Dollars (\$50,000.00).

No member of the board shall receive any salary for acting as a member thereof, but the recreational district may authorize reasonable payment for attendance at meetings of the board of commissioners, and reasonable expenses in carrying out the duties of such board, including travel and lodging.

SOURCES: Codes, 1942, § 5977-04; Laws, 1968, ch. 269, § 4; Laws, 1986, ch. 458, § 42; Laws, 2009, ch. 467, § 20, eff from and after July 1, 2009.

Amendment Notes — The 2009 amendment substituted “not less than Fifty Thousand Dollars (\$50,000.00)” for “equal to Ten Thousand Dollars (\$10,000.00)” at the end of the next-to-last paragraph.

COUNTY PARK SYSTEM

§ 55-9-81. Creation of commission; composition; members.

ATTORNEY GENERAL OPINIONS

A county or county park commission may contract construction and management of a county park to a third party, including a nonprofit corporation, but	must first advertise and let the project for public bids under Miss. Code Ann. § 31-7-13. Allen, March 30, 2007, A.G. Op. #07-00106, 2007 Miss. AG LEXIS 95.
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CHAPTER 15

Commemorative Parks and Monuments

Mississippi Veterans Monument Commission	55-15-51
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CONFEDERATE MONUMENTAL PARK

§ 55-15-41. Metes and bounds.

Editor's Note — Laws of 2009, ch. 318, § 1, provides:

“SECTION 1. The Mississippi Department of Archives and History, with the assistance of the Bureau of Building, Grounds and Real Property Management of the Department of Finance and Administration, is hereby authorized and directed to restore and renovate the Confederate Monument located on the south lawn of the Old Capitol Building and to replace the original statue of Jefferson Davis in its original receptacle at the base of the monument, utilizing proper foundation and preservation materials. The department is authorized to use any funds made available for such purpose from public or private sources.”

MISSISSIPPI VETERANS MONUMENT COMMISSION

- SEC.
- 55-15-61. Powers and duties of commission as to Mississippi Confederate memorial; Shiloh Confederate Memorial Trust Fund; state matching funds; municipal donations [Repealed effective July 1, 2015].
- 55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

§ 55-15-51. Legislative findings and determinations [Repealed effective July 1, 2015].

SOURCES: Laws, 1986, ch. 342, § 1; reenacted without change, Laws, 1998, ch. 474, § 1; reenacted without change, Laws, 2000, ch. 455, § 1; reenacted without change, Laws, 2001, ch. 455, § 1; reenacted without change, Laws, 2002, ch. 480, § 1; reenacted without change, Laws, 2004, ch. 545, § 1; reenacted without change, Laws, 2006, ch. 378, § 1; reenacted without change, Laws, 2010, ch. 472, § 1, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-53. Creation of commission; composition; meetings; compensation of members of commission [Repealed effective July 1, 2015].

SOURCES: Laws, 1986, ch. 342, § 2; Laws, 1990, ch. 456, § 1; Laws, 1991, ch. 392 § 1; Laws, 1997, ch. 466, § 1; reenacted and amended, Laws, 1998, ch. 474, § 2; reenacted without change, Laws, 2000, ch. 455, § 2; reenacted without change, Laws, 2001, ch. 455, § 2; reenacted and amended, Laws, 2002, ch. 480, § 2; reenacted and amended, Laws, 2004, ch. 545, § 2; reenacted without change, Laws, 2006, ch. 378, § 2; reenacted without change, Laws, 2010, ch. 472, § 2, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010. Since the language of the section as it appears

in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-55. Authority to construct and maintain monument [Repealed effective July 1, 2015].

SOURCES: Laws, 1986, ch. 342, § 3; reenacted without change, Laws, 1998, ch. 474, § 3; reenacted without change, Laws, 2000, ch. 455, § 3; reenacted without change, Laws, 2001, ch. 455, § 3; reenacted without change, Laws, 2002, ch. 480, § 3; reenacted and amended, Laws, 2004, ch. 545, § 3; reenacted without change, Laws, 2006, ch. 378, § 3; reenacted without change, Laws, 2010, ch. 472, § 3, eff from and after July 1, 2010.

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Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-57. General powers and duties of commission [Repealed effective July 1, 2015].

SOURCES: Laws, 1986, ch. 342, § 4; Laws, 1990, ch. 456, § 2; Laws, 1997, ch. 466, § 2; reenacted without change, Laws, 1998, ch. 474, § 4; reenacted without change, Laws, 2000, ch. 455, § 4; reenacted without change, Laws, 2001, ch. 455, § 4; reenacted without change, Laws, 2002, ch. 480, § 4; reenacted without change, Laws, 2004, ch. 545, § 4; reenacted without change, Laws, 2006, ch. 378, § 4; reenacted without change, Laws, 2010, ch. 472, § 4, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-59. Veterans Monument Trust Fund [Repealed effective July 1, 2015].

SOURCES: Laws, 1986, ch. 342, § 5; Laws, 1991, ch. 392, § 2; reenacted without change, Laws, 1998, ch. 474, § 5; reenacted without change, Laws, 2000, ch. 455, § 5; reenacted and amended, Laws, 2001, ch. 455, § 5; reenacted without change, Laws, 2002, ch. 480, § 5; Laws, 2003, ch. 529, § 24; reenacted without change, Laws, 2004, ch. 545, § 5; reenacted without change, Laws, 2006, ch. 378, § 5; reenacted without change, Laws, 2010, ch. 472, § 5, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-61. Powers and duties of commission as to Mississippi Confederate memorial; Shiloh Confederate Memorial Trust Fund; state matching funds; municipal donations [Repealed effective July 1, 2015].

(1) In addition to the duties assigned to the Mississippi Veterans Monument Commission in Sections 55-15-55, 55-15-57 and 55-15-59, Mississippi Code of 1972, the commission shall plan and provide for the design, construction and dedication of a Mississippi Confederate memorial at the Shiloh National Military Park. In planning the design, construction and dedication of the memorial, the commission shall consult with and be advised by an advisory committee composed of one (1) member of the House of Representatives appointed by the Speaker, one (1) member of the Senate appointed by the Lieutenant Governor, and three (3) representatives from the Mississippi Department of the Sons of Confederate Veterans. The Mississippi Department of the Sons of Confederate Veterans shall designate such representatives and certify them to the commission. The commission shall solicit private monetary donations for deposit into a Shiloh Confederate Memorial Trust Fund which is hereby created in the State Treasury. Private or corporate donations of any kind to the trust fund may be matched by the state using any appropriations made for that purpose by the Legislature; however, any state match shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate. The commission is also authorized to accept for deposit into the trust fund grants or donations made to it from any other source. All funds deposited in the trust fund shall be used exclusively for the purpose of designing, constructing and maintaining the monument.

(2) The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered, in their discretion, to make contributions out of any available county or municipal funds, as appropriate, to the Shiloh Confederate Memorial Trust Fund.

SOURCES: Laws, 1990, ch. 422, § 1; reenacted without change, Laws, 1998, ch. 474, § 6; Laws, 2000, ch. 455, § 6; reenacted without change, Laws, 2001, ch. 455, § 6; reenacted without change, Laws, 2002, ch. 480, § 6; reenacted without change, Laws, 2004, ch. 545, § 6; reenacted without change, Laws, 2006, ch. 378, § 6; reenacted and amended, Laws, 2010, ch. 472, § 6, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment reenacted and amended the section and in (1), in the second sentence, inserted “one (1) member of the House of Representatives appointed by the Speaker, one (1) member of the Senate appointed by the Lieutenant Governor, and,” and in the fourth sentence, inserted “or corporate” and “of any kind” and substituted “Two Hundred Fifty Thousand Dollars (\$250,000.00)” for “One Hundred Fifty Thousand Dollars (\$150,000.00).”

§ 55-15-62. Congressional Medal of Honor Monument [Repealed effective July 1, 2015].

SOURCES: Laws, 2000, ch. 396, § 1; reenacted without change, Laws, 2001, ch. 455, § 7; reenacted without change, Laws, 2002, ch. 480, § 7; reenacted without change, Laws, 2004, ch. 545, § 7; reenacted without change, Laws, 2006, ch. 378, § 7; reenacted without change, Laws, 2010, ch. 472, § 7, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

Sections 55-15-51 through 55-15-62, Mississippi Code of 1972, which create and empower the Mississippi Veterans Monument Commission, are repealed on July 1, 2015.

SOURCES: Laws, 1997, ch. 466, § 3; Laws, 1998, ch. 474, § 7; Laws, 2000, ch. 455, § 7; Laws, 2001, ch. 455, § 8; Laws, 2002, ch. 480, § 8; Laws, 2004, ch. 545, § 8; Laws, 2006, ch. 378, § 8; Laws, 2010, ch. 472, § 8, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment substituted “July 1, 2015” for “July 1, 2010.”

CHAPTER 23

Mississippi Veterans Memorial Stadium

- SEC.
- 55-23-6. Transfer of operational, administrative and managing powers and duties over Mississippi Veterans Memorial Stadium to Jackson State University; transfer of certain parcels of Mississippi Veterans Memorial Stadium property.
 - 55-23-8. Lease of Mississippi Veterans Memorial Stadium property; compliance with existing lease agreements by Jackson State University and University of Mississippi Medical Center.
 - 55-23-9. Possession, operation, maintenance, and improvement of stadium by Jackson State University; existing contracts to be transferred to, acknowledged and complied with by Jackson State University; monies and revenues to be retained by Jackson State University; form for tickets.

§ 55-23-5. Creation of Mississippi Veterans Memorial Stadium Commission; composition; qualifications, appointment, terms of office and compensation of members; officers; quorum; director.

Editor's Note — Section 55-23-6 provides that the terms “Department of Finance and Administration,” “Mississippi Veterans Memorial Stadium Commission” and “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean “Jackson State University” or “University Medical Center,” as applicable.

§ 55-23-6. Transfer of operational, administrative and managing powers and duties over Mississippi Veterans Memorial Stadium to Jackson State University; transfer of certain parcels of Mississippi Veterans Memorial Stadium property.

(1) From and after March 16, 2011:

(a)(i) The Department of Finance and Administration as managing agency for the Mississippi Veterans Memorial Stadium, upon consultation with Jackson State University and the Department of Health, shall transfer the operational, administrative and managing powers and duties over the Mississippi Veterans Memorial Stadium to Jackson State University, subject to an agreement reached by the Department of Finance and Administration, Jackson State University and the University of Mississippi Medical Center.

(ii) The Department of Finance and Administration as managing agency for the Mississippi Veterans Memorial Stadium, upon consultation with Jackson State University, the University of Mississippi Medical Center and the Department of Health, shall transfer, the real property located in Hinds County, Mississippi, generally known as the “Mississippi Veterans Memorial Stadium Property,” being any property under the jurisdiction of the Department of Finance and Administration as of July 1, 2008, and any other state-owned property located in the area bounded on the north by Taylor Street, on the west by North West Street, on the south by Woodrow Wilson Avenue and on the east by North State Street used as part of or in connection with the Mississippi Veterans Memorial Stadium, to Jackson State University and the University of Mississippi Medical Center in accordance with the provisions of this section and Sections 55-23-8 and 55-23-9 and subject to an agreement reached by the Department of Finance and Administration, the University of Mississippi Medical Center and the developer of the property with whom the Department of Finance and Administration entered into a development lease agreement on July 13, 1993, as amended by an agreement on August 19, 1994, less and except any portion of real property excluded from the development agreement pursuant to a settlement agreement issued in the Circuit Court of Hinds County, Mississippi, on September 16, 2009, better described as Parcel B recorded in Book 4216, page 330, at Hinds County Courthouse, First Judicial District, Jackson, Mississippi;

(b)(i) The property that is the subject of the development agreement entered into on July 13, 1993, as amended by an agreement on August 19, 1994, less and except any portion of real property excluded from the development agreement pursuant to a settlement agreement issued in the Circuit Court of Hinds County, Mississippi, on September 16, 2009, better

described as Parcel B recorded in Book 4216, page 330, at Hinds County Courthouse, First Judicial District, Jackson, Mississippi, shall be transferred to the University of Mississippi Medical Center;

(ii) The remainder of the Mississippi Veterans Memorial Stadium Property shall be transferred from the Department of Finance and Administration to Jackson State University, until such time as Jackson State University relocates its home football games to another venue. Once Jackson State University relocates its home football games to another venue, the portion of Mississippi Veterans Memorial Stadium Property conveyed to Jackson State University under this subsection (1) shall be transferred to the University of Mississippi Medical Center. From and after March 16, 2011, and at the point Jackson State University assumes possession of an operation of the real property transferred in this paragraph, Jackson State University shall have a three-year option to transfer said property back to the State of Mississippi;

(c) All necessary records, property, funds and other assets of the Mississippi Veterans Memorial Stadium shall be transferred from the Department of Finance and Administration to Jackson State University and/or the University of Mississippi Medical Center as applicable, in proportion to the interests that each such entity retains in the real property transferred under paragraphs (a) and (b) of this subsection; and

(d) Unless otherwise provided in the provisions of this section and Sections 55-23-8 and 55-23-9, any personal service, management or other contracts of like nature entered into by the Department of Finance and Administration, as such may apply to the properties transferred under paragraphs (a) and (b) of this subsection, shall be transferred to, acknowledged and complied with by Jackson State University and the University of Mississippi Medical Center as applicable to the interests that each such entity retains in the real property transferred under paragraphs (a) and (b) of this subsection.

(2) Any agreement reached by the Department of Finance and Administration, the University of Mississippi Medical Center and the current developer shall comply with all requirements of this section and Sections 55-23-8 and 55-23-9.

(3) From and after March 16, 2011, wherever the term “Department of Finance and Administration,” the term “Mississippi Veterans Memorial Stadium Commission” or the term “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, appears in the laws of the state, the terms shall mean “Jackson State University” or the “University of Mississippi Medical Center,” which shall be applicable to the interests that each such entity retains in the property transferred under subsection (1)(b) as stipulated in any agreement entered into by the Department of Finance and Administration, Jackson State University, the University of Mississippi Medical Center and the developer of the property for the transfer of such property and the administration and operations relating thereto.

SOURCES: Laws, 2007, ch. 605, § 3; Laws, 2008, ch. 500, § 1; Laws, 2011, ch. 426, § 1, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment rewrote the section.

§ 55-23-8. Lease of Mississippi Veterans Memorial Stadium property; compliance with existing lease agreements by Jackson State University and University of Mississippi Medical Center.

(1) Jackson State University and the University of Mississippi Medical Center shall comply fully with the terms of any lease agreement entered into by the Department of Finance and Administration with any public or private entity for that portion of the Mississippi Veterans Memorial Stadium Property transferred to and under its jurisdiction as provided in Section 55-23-6, including the existing lease agreement between the Department of Finance and Administration and the University of Mississippi Medical Center entered into on February 23, 2009, as amended from time to time, unless and except that public or private entity breaches the terms of the lease agreement or defaults on lease payments or upon an agreement of the parties to terminate.

(2) The University of Mississippi Medical Center may enter into agreements with any developer for the property conveyed to the University of Mississippi Medical Center under Section 55-23-6, or any lessee or lessees (or any designee of any such lessee or lessees), which agreements may extend over any period of time not exceeding the term of such lease (including renewals and extensions), pursuant to which the state shall be obligated to purchase contractual rights and/or improvements constructed on such property and/or any residual rights in connection with such improvements upon terms and for a purchase price, not to exceed Ten Million Dollars (\$10,000,000.00).

(3) The University of Mississippi Medical Center, in its discretion, is authorized to enter into all other agreements as may be necessary or appropriate in connection with any financing by any lessee or lessees (or any designee of any such lessee or lessees) of any improvements to be constructed on property leased from the University of Mississippi Medical Center.

(4) Any lease, renewal thereof, or other agreement entered into by the University of Mississippi Medical Center under this section shall not be valid unless approved by the Board of Trustees of State Institutions of Higher Learning.

(5) Any lessee or lessees (or any designee of any such lessee or lessees) of property leased from the University of Mississippi Medical Center under this section shall not be considered as being the state, any political subdivision of the state or any officer or servant of the state for the purposes of any liability that may be waived under Section 11-46-1 et seq.

(6) The University of Mississippi Medical Center, or the Department of Finance and Administration, acting on behalf of the state or any state agency, is authorized to perform any additional steps and necessary duties to fully implement the provisions of this section and Sections 55-23-6 and 55-23-9, as

the exercise of such authority relates to the negotiation or renegotiation of certain leases or acquiring rights in any property under any existing lease with the Department of Finance and Administration.

(7) In addition to the requirement imposed upon the University of Mississippi Medical Center and Jackson State University to fully comply with the terms of all lease agreements entered into concerning the “Mississippi Veterans Memorial Stadium Property,” the process of eminent domain shall not be used to acquire possession of any property interest leased under the provision of any existing development lease entered into on the property at anytime before the expiration of the term of the original lease or any amendment made thereto.

SOURCES: Laws, 2001, ch. 602, § 1; Laws, 2007, ch. 605, § 1; Laws, 2008, ch. 500, § 2; Laws, 2011, ch. 426, § 2, eff from and after July 1, 2011.

Editor’s Note — Laws of 2007, ch. 605, § 2, which provided the legislative intent to authorize the Department of Finance and Administration to cancel the leases of Mississippi Veterans Memorial Stadium Property, was repealed by Laws of 2011, ch. 426, § 4, effective from and after July 1, 2011.

Amendment Notes — The 2011 amendment rewrote the section.

§ 55-23-9. Possession, operation, maintenance, and improvement of stadium by Jackson State University; existing contracts to be transferred to, acknowledged and complied with by Jackson State University; monies and revenues to be retained by Jackson State University; form for tickets.

Jackson State University shall acquire possession of, operate, maintain and improve the Mississippi Veterans Memorial Stadium until such time that Jackson State University relocates its home football games to another venue, in accordance with the provisions of this section and Sections 55-23-6 and 55-23-8. Jackson State University shall employ such agents and employees as may be required in connection therewith. All personnel of the Mississippi Veterans Memorial Stadium Commission shall be transferred from the Department of Finance and Administration to Jackson State University. Jackson State University may enter into contracts for the use of the stadium, and fix the amount of the compensation therefor, and collect the same when due.

Any personal service, management or other contracts of like nature entered into by the Department of Finance and Administration that are applicable to the Mississippi Veterans Memorial Stadium, in whole or in part, shall be transferred to, acknowledged and complied with by Jackson State University for the term of such contracts.

All monies and revenues, including the amusement tax imposed upon the sale of tickets for admission to the stadium, and all other events on stadium property designated for Jackson State University and all monies arising from other use of stadium property, including that realized from the sale of concessions, shall be retained by Jackson State University for the operation, maintenance and improvements to the Mississippi Veterans Memorial Sta-

dium and for the support of intercollegiate athletics at such university. Jackson State University shall seek appropriate state funding through the Department of Finance and Administration for completion by the Bureau of Building, Grounds and Real Property for all expenses incident to the necessary safety, repairs and renovations as determined by the Department of Finance and Administration to the Mississippi Veterans Memorial Stadium.

All tickets sold to an event conducted in the Mississippi Veterans Memorial Stadium shall have printed in an appropriate and prominent place thereon the words A.C. "Butch" Lambert Field.

SOURCES: Laws, 1960, ch. 390, § 4; Laws, 1989, ch. 548, § 2; Laws, 1990, ch. 312, § 3; Laws, 2001, ch. 602, § 3; Laws, 2011, ch. 426, § 3, eff from and after July 1, 2011.

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Amendment Notes — The 2011 amendment rewrote the section.

§ 55-23-11. Promulgation of rules and regulations governing use of lands and facilities.

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-13. Maintenance of stadium driveways.

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-15. Use of state-owned lands for public parking facilities.

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-21. Enlargement and renovation of stadium generally; public parking facilities.

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-41. Mississippi Memorial Stadium Construction Fund; use of Hinds County funds.

Editor's Note — Section 55-23-6 provides that the terms “Department of Finance and Administration,” “Mississippi Veterans Memorial Stadium Commission” and “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean “Jackson State University” or “University Medical Center,” as applicable.

§ 55-23-43. Employment of architects, engineers, etc.; letting of contracts; payment of stadium enlargement and renovation expenses pursuant to Sections 55-23-21 through 55-23-43.

Editor's Note — Section 55-23-6 provides that the terms “Department of Finance and Administration,” “Mississippi Veterans Memorial Stadium Commission” and “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean “Jackson State University” or “University Medical Center,” as applicable.

§ 55-23-45. Authorization of repair, remodeling and enlargement of stadium; public parking facilities.

Editor's Note — Section 55-23-6 provides that the terms “Department of Finance and Administration,” “Mississippi Veterans Memorial Stadium Commission” and “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean “Jackson State University” or “University Medical Center,” as applicable.

§ 55-23-51. Designation of athletic field as “A.C. (Butch) Lambert Field.”

Editor's Note — Section 55-23-6 provides that the terms “Department of Finance and Administration,” “Mississippi Veterans Memorial Stadium Commission” and “commission,” when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean “Jackson State University” or “University Medical Center,” as applicable.

CHAPTER 24

Mississippi Coast Coliseum Commission

§ 55-24-9. Powers of the Mississippi Coast Coliseum Commission.

ATTORNEY GENERAL OPINIONS

The Mississippi Coast Coliseum Commission is authorized to receive revenue from its operations and to invest funds not needed for current expenditures. Such funds and the earnings thereon would not

be part of the Trust Fund and would not be subject to the protections afforded to the Trust Fund. Gollot, Apr. 8, 2005, A.G. Op. 05-0169.

§ 55-24-17. Mississippi Coast Coliseum and Convention Trust Fund established; commission authorized to utilize trust fund under certain conditions to make repairs to coliseum necessitated by damage resulting from Hurricane Katrina.

ATTORNEY GENERAL OPINIONS

Since the Legislature established the Mississippi Coast Coliseum and Convention Center Trust Fund by legislative enactment, i.e., by general and local and private law, and set forth the conditions upon which the interest earnings or prin-

cipal may be used, the Legislature can change the terms and conditions of the trust by appropriate legislative enactment as well. Gollot, Apr. 8, 2005, A.G. Op. 05-0169.

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CHAPTER 1

Mississippi Development Authority

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§ 57-1-1. Declaration of public policy.

Editor’s Note — Laws of 2010, ch. 533, § 2 provides:

“The Legislature recognizes that the tourism industry stimulates economic development throughout the State of Mississippi in the same manner as that resulting from the location of an industrial, scientific or educational project in the state and that promoting tourism programs and projects is equally as important as attracting certain industries to the state. The Legislature finds that an integral component of the tourism industry in the state consists of programs and projects promoting the heritage, history and culture of the state and demonstrating the state’s attractiveness as a tourism destination for those reasons. Therefore, creating and enhancing opportunities for visitors to Mississippi to learn about and appreciate the state’s heritage, history and culture, including literature and the arts, is a priority for the Division of Tourism Development of the Mississippi Development Authority.”

Laws of 2011, ch. 399, § 1, provides:

“SECTION 1. The Department of Finance and Administration, acting on behalf of the Mississippi Development Authority, is authorized to sell and convey to Bruce Green certain real property and any improvements thereon located in Prentiss County, Mississippi, which property is more particularly described as follows:

“That certain 106 ⅔ acres vested in Charlie E. Green and wife, Olive E. Green, by Warranty Deed executed by D.W. Jumper and wife, Nettie Jumper, on the 19th day of June, 1956, and recorded in Deed Book 70 on page 215, in the Chancery Clerk’s records of Prentiss County, Mississippi, LESS AND EXCEPT that parcel conveyed in the Northwest Quarter of Section 29, Township 4, Range 6, by Charlie E. Green and wife, Olive E. Green to C.O. Eaton on the 29th day of December, 1960, and recorded in Deed Book 76 on Page 48 and more particularly described as follows: A part of the Northwest Quarter of Section 29, Township 4, Range 6 bounded as follows: Commencing at a point 53 ⅓ rods East of the Northwest Corner of said Quarter and run South 140 rods; thence East 53 ⅓ rods; South 20 rods to South boundary of said Quarter; thence East 53 ⅓ rods; thence North 160 rods; thence West 106 ⅔ rods to the point of beginning. Containing 100 acres, more or less. This conveyance totaling 6 ⅔ acres in the Northwest Quarter of Section 29, Township 4, Range 6, Prentiss County, Mississippi.

“(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

“(3) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into the State General Fund.”

Laws of 2011, ch. 527, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the State of Mississippi, is authorized to accept and receive from the Tennessee Valley Authority all right, title and interest in certain real property and any improvements thereon located in Tishomingo County, Mississippi, more particularly described as follows: A parcel of land lying partially in the N½ of the SE¼ of Section 21, partially in the S½ of the NW¼ of Section 22, partially in the SW¼ of Section 22, partially in W½ of the SE¼ of Section 22, partially in NW¼ of Section 27 and also partially in the W½ of the NE¼ of Section 27, Township 1 South, Range 10 East, Tishomingo County, State of Mississippi, also being along the banks of the Yellow Creek embayment of the Pickwick Reservoir and Tennessee-Tombigbee Waterway and being more particularly described as follows:

“Beginning at a point, said point being the SW¼ corner of said Section 22 and the NW¼ corner of said Section 27 and being on the TVA Pickwick Reservation Boundary Line; thence N00°03'W, 1080.00 feet more or less to an angle iron (found) on the TVA Pickwick Reservation Boundary Line and westerly right of way of County Road #351, being Corner No. 23; thence leaving the said point and the said TVA Pickwick Reservation Boundary Line and with the meandering along the centerline of an old road 1005 feet more or less to a point, said point being Corner No. 1-1-29; thence leaving said point N71°13' E-143 feet to a point, said point being Corner No. 1-1-13; thence leaving said point and meandering with centerline of the said old road N50°08'W-148 feet to a point, said point being Corner No. 22; thence leaving said point N88°59'W-377 feet to a point, said point being in the northeast right-of-way line of State Highway 25, said point being Corner No. 1-1-14; thence leaving said point in a northwesterly direction 113 feet to a point, said point being Corner No. 1-1-15; thence leaving said point and continuing in a northwesterly direction 203 feet to a point, said point being Corner No. 1-1-16; thence leaving said point N43°06'W-123 feet to a point, said point being Corner No. 1-1-17; thence leaving said point N46°54'W-35 feet to a point, said point being a right-of-way marker No. 1-1-18; thence leaving said point in a northwesterly direction 100 feet to a point, said point being Corner No. 1-1-18A, said point also being in the 423 foot mean sea level contour line, herein after referred to as (msl) contour line; thence leaving said point Due north 100 feet more or less, to a point in the 414 foot (msl) contour line; thence leaving said point and with the meanders of the said 414 foot (msl) contour line as follows: northeasterly, southeasterly, northeasterly, southwesterly, northeasterly, southerly, easterly and then southeasterly to a point, said point being Corner No. 9-1 in the 414 foot (msl) contour line; thence leaving said point and said contour line S70°23'13"W-235.91 feet to a point, said point being Corner No. 9-2 (set) and being on the TVA Pickwick Reservation Boundary Line; thence leaving said point and with said boundary line S02°02'10"W-530.77 feet to a point, said point being Corner No. 6A; thence leaving said point and continuing with said boundary line N00°35'W-1900 feet to the point of beginning and containing 293.9 acres more or less.

“The above described parcel of land is lying partially in the N½ of the SE¼ of Section 21, partially in the S½ of the NW¼ of Section 22, partially in the SW¼ of Section 22, partially in W½ of the SE¼ of Section 22, partially in NW¼ of Section 27 and also partially in the W½ of the NE¼ of Section 27, Township 1 South, Range 10 East, Tishomingo County, State of Mississippi.

“(2) The real property described in subsection (1) of this section may be accepted by the Department of Finance and Administration and titled in the name of the State of Mississippi for the benefit and use of the Mississippi Development Authority, provided that:

“(a) The outstanding indebtedness remaining due to the Tennessee Valley Authority shall be forgiven as a condition upon the acceptance of the real property described in subsection (1) of this section by the State of Mississippi; and

“(b) No such deed of acceptance shall be executed until an adequate Phase I environmental assessment of the real property has been completed and submitted to

the Mississippi Development Authority indicating that such property is clear of any environmental contaminants and/or pollutants. As a condition of this acceptance and upon satisfactory results of the Phase I environmental assessment, the State of Mississippi agrees to indemnify and hold harmless the Tennessee Valley Authority from all liabilities arising out of the environmental condition of the property.

“(3)(a) Upon acquiring the real property described in subsection (1) of this section, the Mississippi Development Authority may donate to a governmental entity or sell any portion of the real property for industrial purposes. Such real property shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

“(b) If any of the real property described in subsection (1) of this section is conveyed to a governmental entity and thereafter sold and conveyed to a public or private entity for industrial purposes as provided in paragraph (a) of this subsection, the funds received from such sale and conveyance shall be paid into the appropriate fund for use by the Yellow Creek State Inland Port Authority for equipment or facilities necessary to the operation of the port. With the exception of the portion of the ad valorem tax amount assessed and collected for the support of schools and education, any tax revenues collected on the real property shall be paid into the appropriate fund for use by the Yellow Creek State Inland Port Authority for equipment or facilities necessary to the operation of the port.”

ATTORNEY GENERAL OPINIONS

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired

and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

§ 57-1-18. Small Municipalities and Limited Population Counties Fund; definitions; creation; grant program; qualifications for assistance; promulgation of rules and regulations; annual report.

(1) For the purposes of this section, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Limited population county” means a county in the State of Mississippi with a population of thirty thousand (30,000) or less according to the most recent federal decennial census at the time the county submits its application to the MDA under this section.

(b) “MDA” means the Mississippi Development Authority.

(c) “Project” means highways, streets and other roadways, bridges, sidewalks, utilities, airfields, airports, acquisition of equipment, acquisition of real property, development of real property, improvements to real property, and any other project approved by the MDA.

(d) “Small municipality” means a municipality in the State of Mississippi with a population of ten thousand (10,000) or less according to the most

recent federal decennial census at the time the municipality submits its application to the MDA under this section. The term “small municipality” also includes a municipal historical hamlet as defined in Section 17-27-5.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the “Small Municipalities and Limited Population Counties Fund,” which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants to small municipalities and limited population counties or natural gas districts created by law and contained therein to assist in completing projects under this section.

(b) Monies in the fund which are derived from proceeds of bonds issued under Sections 1 through 16 of Chapter 538, Laws of 2002, Sections 1 through 16 of Chapter 508, Laws of 2003, Sections 55 through 70 of Chapter 1, Laws of 2004 Third Extraordinary Session, Sections 1 through 16 of Chapter 482, Laws of 2006, Section 15 of Chapter 580, Laws of 2007, Section 1 of Chapter 503, Laws of 2008, Section 42 of Chapter 557, Laws of 2009, Section 38 of Chapter 533, Laws of 2010, Section 41 of Chapter 480, Laws of 2011, or Section 30 of Chapter 569, Laws of 2013, may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the MDA. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants to small municipalities and limited population counties from the Small Municipalities and Limited Population Counties Fund. Grants made under this section to a small municipality or a limited population county shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) during any grant period established by the MDA. A small municipality or limited population county may apply to the MDA for a grant under this section in the manner provided for in this section.

(4) A small municipality or limited population county desiring assistance under this section must submit an application to the MDA. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the MDA.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the department shall

promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(6) The MDA shall file an annual report with the Governor, the Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, describing all assistance provided under this section.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 57; Laws, 2002, ch. 538, § 17; Laws, 2003, ch. 508, § 17; Laws, 2004, 3rd Ex Sess., ch. 1, § 71; Laws, 2006, ch. 482, § 17; Laws, 2007, ch. 580, § 16; Laws, 2008, ch. 503, § 2; Laws, 2009, ch. 557, § 43; Laws, 2010, ch. 533, § 39; Laws, 2011, ch. 390, § 2; Laws, 2011, ch. 480, § 42; Laws, 2013, ch. 569, § 31, eff from and after passage (approved April 25, 2013.)

Joint Legislative Committee Note — Section 2 of ch. 390, Laws of 2011, effective from and after passage (approved March 11, 2011), amended this section. Section 42 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Legislative Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at its July 13, 2011, meeting.

Editor's Note — Laws of 2010, ch. 533, § 52, effective from and after passage (approved April 16, 2010) provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2009 amendment, in the first sentence of (2)(b), inserted “Section 42 of Chapter 557, Laws of 2009,” and made a minor stylistic change.

The 2010 amendment, in (2)(b), inserted “or Section 38 of Chapter 533, Laws of 2010” and made a related change.

The first 2011 amendment (ch. 390) added the last sentence of (1)(d); and made a minor stylistic change.

The second 2011 amendment (ch. 480) inserted “or Section 41 of Chapter 480, Laws of 2011” and made a related change in the first sentence of (2)(b); and made a minor stylistic change.

The 2013 amendment inserted “or Section 30 of Chapter 569, Laws of 2013” in the first sentence of (2)(b) and made a related change.

§ 57-1-55. General powers and duties of Department of Economic and Community Development.

Cross References — Mississippi Development Authority to display submissions received by Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act (Public Law 111-5) on unique Internet Web page accessible to public, see § 31-7-13.

§ 57-1-59. General powers and duties of Mississippi Development Authority with respect to tourism.

The Mississippi Development Authority shall have the following general powers and duties with respect to tourism:

(a) To promote and advertise the image of Mississippi both within and without the boundaries of this state;

(b) To promote and advertise fairs and similar activities of interest to tourists and the traveling public;

(c) To promote and advertise the use of wildlife and natural areas by tourists and the traveling public;

(d) To promote and advertise the use of state recreational and park facilities by tourists and the traveling public;

(e) To promote and advertise all resources of the State of Mississippi as attractions to tourists and the traveling public;

(f) To develop for all agencies of state government the necessary promotional and advertising materials needed to promote all facilities and programs which may be of interest to travelers and tourists;

(g) To maintain an educational awareness program for the citizens of the state to constantly encourage increased development of activities of interest to tourists and the traveling public;

(h) To develop and maintain an information services system to adequately guide tourists and the traveling public within the boundaries of the state;

(i) To develop and maintain an extensive media program to adequately inform the national and international consumer about Mississippi;

(j) To enter into contracts and other agreements with local tourism commissions or similar entities for the purpose of developing regional strategies for tourism promotion. The Mississippi Development Authority, in conjunction with the formulation of regional strategies for tourism promotion, may require that local tourism commissions or similar entities enter into agreements with the authority as a condition for receiving any state grants to promote tourism; and

(k) To develop programs and projects promoting the state's heritage, history, culture, literature and arts, including the positive recovery of the state after damages caused by natural disasters, and demonstrating the state's attractiveness as a tourism destination for those and other reasons.

SOURCES: Laws, 1979, ch. 438, § 9; Laws, 1988, ch. 518, § 42; Laws, 1990, ch. 502, § 6; Laws, 2005, ch. 339, § 1; Laws, 2010, ch. 533, § 7, *eff from and after passage* (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 2 provides:

"The Legislature recognizes that the tourism industry stimulates economic development throughout the State of Mississippi in the same manner as that resulting from the location of an industrial, scientific or educational project in the state and that promoting tourism programs and projects is equally as important as attracting certain industries to the state. The Legislature finds that an integral component of the tourism

industry in the state consists of programs and projects promoting the heritage, history and culture of the state and demonstrating the state's attractiveness as a tourism destination for those reasons. Therefore, creating and enhancing opportunities for visitors to Mississippi to learn about and appreciate the state's heritage, history and culture, including literature and the arts, is a priority for the Division of Tourism Development of the Mississippi Development Authority."

Laws of 2010, ch. 533, § 52 provides:
 "Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2010 amendment added (k).

§ 57-1-64. Selling advertising and tourism promotional information through various marketing outlets; Mississippi Development Authority Tourism Advertising Fund created.

(1) The Mississippi Development Authority is authorized to sell advertising and other tourism promotional information through the Mississippi Development Authority Internet website and other marketing outlets, and to enter into agreements with tourism associations and similar entities for the purpose of making and facilitating sales through the use of such entities. Revenues received from such sales shall be placed into the special fund created in subsection (2) of this section.

(2) There is created a special fund in the State Treasury to be known as the Mississippi Development Authority Tourism Advertising Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may be used by the Mississippi Development Authority for the purpose of paying costs incurred in connection with the purchase of Internet advertising and other promotional information and materials related to Mississippi tourism resources and activities.

(3) The Mississippi Development Authority shall have all powers necessary to implement and administer the provisions of this section.

SOURCES: Laws, 2011, ch. 480, § 43, eff from and after passage (approved Apr. 6, 2011.)

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

MISSISSIPPI INDUSTRY INCENTIVE FINANCING REVOLVING FUND

SEC.
 57-1-221. Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

§ 57-1-221. Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

(1) As used in this section:

(a) “Approved business enterprise” means any project that:

(i) Locates or expands in this state and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars (\$30,000,000.00) in Tier 1 or Tier 2 counties;

(ii) Locates or expands in this state and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars (\$15,000,000.00) in areas federally designated as low-income census tracts;

(iii) Locates or expands in this state and creates a minimum of one thousand (1,000) new, full-time jobs; or

(iv) Locates or expands in this state with significant regional impact as determined by MDA.

(b) “MDA” means the Mississippi Development Authority.

(c) “Facility related to the project” means and includes any of the following, as they may pertain to the project:

(i) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project;

(ii) Building facilities and equipment necessary to operate the facility;

(iii) Rail lines;

(iv) Airports, airfields, air terminals and port facilities;

(v) Highways, streets and other roadways; and

(vi) Fire protection facilities, equipment and elevated water tanks.

(d) “Project” means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA.

(2)(a) There is created a special fund in the State Treasury to be known as the Mississippi Industry Incentive Financing Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (3) of this section.

(b) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants or loans under this section through the use of general obligation bonds. An accounting of actual costs

incurred for which reimbursement is sought shall be maintained for each grant or loan by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants or loans from the Mississippi Industry Incentive Financing Revolving Fund to local governments, including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to the project. Local governments are authorized to accept grants and enter into loans authorized under the program, and to sell, lease or otherwise dispose of a project or any property related to the project in whole or in part.

(4)(a) Any business enterprise or local government desiring a grant or loan under this section shall submit an application to the MDA which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an approved business enterprise;

(ii) A description, including the cost, of the requested assistance;

(iii) A description of the purpose for which the assistance is requested; and

(iv) Any other information required by the MDA.

(b) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business enterprise or local government for a grant or loan under this section, the MDA shall determine whether the enterprise meets the definition of an approved business enterprise and determine whether to provide the assistance requested in the form of a grant or a loan.

(d) The MDA shall have sole discretion in providing grants or loans under this section. The terms of a grant or loan provided under this section and the manner of repayment of any loan shall be within the discretion of the MDA. Repayments of loans made under this section shall be deposited to the credit of the Mississippi Industry Incentive Financing Revolving Fund until the uncommitted balance in the fund reaches Fifty Million Dollars (\$50,000,000.00). Once the uncommitted balance in the fund reaches Fifty Million Dollars (\$50,000,000.00), repayments of loans under this section shall be deposited to the credit of Fund No. 3951 in the State Treasury to pay debt service on bonds until such time as the uncommitted balance in the fund falls below Fifty Million Dollars (\$50,000,000.00).

(e) The MDA shall notify the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee of the

approval of any grant or loan application thirty (30) days prior to the disbursement of any money for the loan or grant from the Mississippi Industry Incentive Financing Revolving Fund. The notification shall identify the applicant and the purposes for which the loan or grant is made.

(5)(a) Contracts, by local governments, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project shall be exempt from the provisions of Section 31-7-13 if:

(i) The MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13; and

(ii) The approved business enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(6) It is the policy of the MDA and the MDA is authorized to accommodate and support any enterprise that receives a loan under this section for a project defined in Section 17-25-23 that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term “socially and economically disadvantaged individuals” shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this subsection.

(7) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section.

SOURCES: Laws, 2010, ch. 533, § 24; Laws, 2011, ch. 301, § 3; Laws, 2011, ch. 480, § 23; Laws, 2011 1st Ex Sess, ch. 1, § 2; Laws, 2013, ch. 569, § 41, eff from and after passage (approved April 25, 2013.)

Joint Legislative Committee Note — Section 3 of ch. 301, Laws of 2011, effective from and passage (Approved January 10, 2011), amended this section. Section 23 of ch. 480, Laws of 2011, effective from and after passage (Approved April 6, 2011), also amended this section. As set out above, this section reflects the language of Section 23 of ch. 480, Laws of 2011, which contains language that specifically provides that it supersedes § 57-1-221 as amended by Laws of 2011, ch. 301.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The first 2011 amendment (ch. 301) added (6); and redesignated former (6); as (7).

The second 2011 amendment (ch. 480) substituted “one hundred fifty (150)” for “two hundred fifty (250)” and “areas federally designated as low-income census tracts” for “Tier 3 counties” in (1)(a)(ii); and added (1)(a)(iv) and made related changes.

The third 2011 amendment (1st Ex Sess, ch. 1), in (3), inserted “including, but not limited to, counties, municipalities, industrial development authorities and economic development districts” in the first sentence, and added the last sentence.

The 2013 amendment in (4)(d), added “until the uncommitted balance in the fund reaches Fifty Million Dollars (\$50,000,000.00)” at the end of the third sentence, and added the last sentence; and added (4)(e).

Cross References — Counties and municipalities authorized to enter into agreements with approved business enterprises under certain circumstances, see § 17-25-23.

Counties and municipalities authorized to enter into fee-in-lieu agreements, with certain approved business enterprises, see § 17-25-23.

Federal Aspects — Section 8(d) of the Small Business Act, see 15 USCS § 637(d).

MAJOR ENERGY PROJECT DEVELOPMENTS

§ 57-1-257. Acts of public agencies authorized for purpose of planning, design, undertaking, and carrying out project.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

LOCAL GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN PROGRAM

- SEC.
- 57-1-303. Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2015].
 - 57-1-307. Bonds; resolution for issuance; disposition of bond sale proceeds and investment earnings generally.
 - 57-1-315. Bonds; issuance and sale; redemption.

§ 57-1-303. Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2015].

(1)(a)(i) There is created a special fund in the State Treasury to be designated as the “Local Governments Capital Improvements Revolving Loan Fund,” which fund shall consist of such monies as provided in

Sections 57-1-307 through 57-1-335. The fund shall be maintained in perpetuity for the purposes established in Sections 57-1-301 through 57-1-335. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized under Sections 57-1-301 through 57-1-335.

(ii) Monies in the Local Governments Capital Improvements Revolving Loan Fund which are derived from interest on loan payments received by the Mississippi Development Authority after January 1, 2002, for loans funded with proceeds of bonds whose interest is not exempt from income taxation under the provisions of the Internal Revenue Code may be used by the Mississippi Development Authority for the ordinary and necessary general support of the Mississippi Development Authority. However, such monies may not be used for the purpose of providing salary increases for Mississippi Development Authority employees. The Mississippi Development Authority may escalate its budget and expend such monies in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. This subparagraph (ii) shall be repealed from and after July 1, 2015.

(b) The Local Governments Capital Improvements Revolving Loan Fund shall be divided into the Taxable Local Governments Capital Improvements Revolving Loan Subaccount and the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount. Funds allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code. Funds allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for any eligible capital improvements, including, but not limited to, capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

(c) Of the funds deposited into the Local Governments Capital Improvements Revolving Loan Fund, not less than Twenty-five Million Dollars (\$25,000,000.00) shall be allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount, and the remainder of such funds shall be allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount.

(2) A county or an incorporated municipality may apply to the Mississippi Development Authority for a loan under the local governments capital improvements revolving loan program established under Sections 57-1-301 through 57-1-335.

(3)(a) The Mississippi Development Authority shall establish a loan program by which loans, at the rate of interest provided for in paragraph (b)

of this subsection, may be made available to counties and incorporated municipalities to assist counties and incorporated municipalities in making capital improvements. Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the Mississippi Development Authority. The Mississippi Development Authority may require county or municipal participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The Mississippi Development Authority may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program and loans for projects described in Section 57-1-301(1) (m) shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) per project.

(b)(i) Except as otherwise provided in this paragraph (b), the rate of interest on loans made from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method. The rate of interest on loans for all other capital improvements shall be at the true interest cost on the most recent issue of twenty-year state general obligation bonds occurring prior to the date such loan is made.

(ii) The rate of interest on loans made after April 9, 2002, from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of the lesser of two percent (2%) per annum, calculated according to the actuarial method, or the true interest cost on the most recent issue of state general obligation bonds occurring prior to the date such loan is made. The rate of interest on loans made after April 9, 2002, for all other capital improvements shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method.

(iii) Notwithstanding the provisions of this paragraph to the contrary, loans made for the purposes of the capital project described in Section 57-1-301(2)(l) shall bear no interest.

(4) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan

agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(5) The State Auditor, upon request of the Mississippi Development Authority, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

(6) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

(7) There is created a special fund in the State Treasury to be designated as the “Local Governments Brownfields Redevelopment Grant Fund.” The fund shall consist of those monies as provided in Section 57-1-307. Unexpended amounts remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized in this section. From and after July 1, 2009, the Local Governments Brownfields Redevelopment Grant Fund is abolished and all money in the fund shall be transferred to the Local Governments Capital Improvements Revolving Loan Fund.

(8) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under Sections 57-1-301 through 57-1-335 to the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political subdivisions located in such counties; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SOURCES: Laws, 1994, ch. 570, § 2; Laws, 1995, ch. 415, § 1; Laws, 1997, ch. 534, § 2; Laws, 2002, ch. 548, § 2; Laws, 2005, ch. 349, § 1; Laws, 2005, ch. 497, § 5; Laws, 2006, ch. 545, § 6; Laws, 2007, ch. 388, § 1; Laws, 2009, ch. 557, § 13; Laws, 2010, ch. 458, § 1, eff from and after July 1, 2010.

Amendment Notes — The 2009 amendment extended the date of the repealer for subparagraph (1)(a)(ii) by substituting “July 1, 2012” for “July 1, 2010”; in (7), deleted the former third sentence, which read: “The fund shall be maintained in perpetuity for the purposes established in this section,” and added the last sentence; deleted former (8), which required the Mississippi Development Authority to establish a local governments brownfields redevelopment grant program; and redesignated former (9) as present (8).

The 2010 amendment, in the last sentence in (1)(a)(ii), substituted “July 1, 2015” for “July 1, 2012”; and in the first sentence in (3)(b)(ii), inserted “the lesser of” and added “or the true interest cost on the most recent issue of state general obligation bonds occurring prior to the date such loan is made.”

§ 57-1-307. Bonds; resolution for issuance; disposition of bond sale proceeds and investment earnings generally.

(1) The State Bond Commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 57-1-303. Upon the adoption of a resolution by the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Mississippi Development Authority shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under Sections 57-1-307 through 57-1-335 shall not exceed One Hundred Fifteen Million Dollars (\$115,000,000.00); provided, however, that an additional amount of bonds may be issued under Sections 57-1-307 and 57-1-335 in an amount not to exceed Thirteen Million Dollars (\$13,000,000.00), and the proceeds of any such additional amount of bonds so issued shall be utilized solely to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

(2) Proceeds from the sale of bonds shall be deposited in the special fund created in Section 57-1-303. Any investment earnings on amounts deposited into the special fund created in Section 57-1-303 shall be used to pay debt service on bonds issued under Sections 57-1-307 through 57-1-335, in accordance with the proceedings authorizing issuance of such bonds.

SOURCES: Laws, 1994, ch. 570, § 4; Laws, 1997, ch. 534, § 3; Laws, 1999, ch. 577, § 1; Laws, 2000, ch. 584, § 1; Laws, 2005, ch. 497, § 6; Laws, 2009, ch. 557, § 14, eff from and after passage (approved Apr. 17, 2009.)

Amendment Notes — The 2009 amendment, in (1), inserted “determine the appropriate method for sale of the bonds” and “or negotiate the sale of the bonds” in the third sentence, substituted “One Hundred Fifteen Million Dollars (\$115,000,000.00)” for “One Hundred Five Million Dollars (\$105,000,000.00)” in the fourth sentence and deleted the last sentence as to loans for remediation of brownfield agreement sites by localities; and in (2), deleted “Except as otherwise provided in this section” from the beginning of the second sentence, and deleted the former last two sentences, which related to the investment earnings on the additional bonds authorized to be issued under Laws of 2005, Chapter 497.

§ 57-1-315. Bonds; issuance and sale; redemption.

The State Bond Commission shall act as issuing agent for the bonds authorized under Section 57-1-307, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 57-1-307 through 57-1-335 from the proceeds derived from the sale of such bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, selected by the commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 57-1-307 through 57-1-335, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1994, ch. 570, § 8; Laws, 2009, ch. 557, § 15, *eff from and after passage* (approved Apr. 17, 2009.)

Amendment Notes — The 2009 amendment, in the first paragraph, inserted “determine the appropriate method for sale of the bonds” and “or negotiate the sale of the bonds” in the first sentence, and rewrote the last two sentences; rewrote the second paragraph; and made minor stylistic changes.

PROJECT COUGAR SITING PROPOSAL AND AUTHORITY**§ 57-1-363. Public agency authority concerning project; contracts with DECD; indebtedness.**

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

MISSISSIPPI DEVELOPMENT AUTHORITY WORKFORCE TRAINING
FUND

SEC.

57-1-401. Mississippi Development Authority Workforce Training Fund created; use of funds.

§ 57-1-401. Mississippi Development Authority Workforce Training Fund created; use of funds.

(1) A special fund, to be designated as the “Mississippi Development Authority Workforce Training Fund,” is created within the State Treasury into which shall be deposited money from any source that is designated for deposit therein. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(2) All money deposited into the Mississippi Development Authority Workforce Training Fund shall be disbursed by the Mississippi Development Authority to provide workforce training through state institutions of higher learning, community and junior colleges, and Workforce Investment Network job centers to meet workforce training needs not met by other resources. Employers may request training for existing employees and/or newly hired employees from the Mississippi Development Authority. The Mississippi Development Authority shall establish criteria for utilization of the money in the fund and be responsible for approving the training.

SOURCES: Laws, 2010, 2nd Ex Sess, ch. 30, § 1, eff from and after passage (approved Sept. 3, 2010.)

MISSISSIPPI ALTERNATIVE FUEL SCHOOL BUS AND MUNICIPAL
MOTOR VEHICLE REVOLVING LOAN FUND

SEC.

57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

§ 57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

(1) As used in this subsection:

(a) “Alternative fuel” means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) “Alternative fuel school bus” means a school bus propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel

vehicle using alternative fuel as one of its fuels, or as a dual-fuel vehicle using alternative fuel as one of its fuels.

(c) “Conversion kit” means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(d) “Cost of qualified alternative fuel motor vehicle fuel property” means any of the following:

(i) The actual cost per school bus paid by the school district for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (l)(i) of this subsection.

(ii) The incremental cost per school bus paid by the school district upon the purchase of an OEM alternative fuel school bus for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (l)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(e) “Fuel system equipment” means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel school bus, the delivery of alternative fuel to the engine of an alternative fuel school bus, and the exhaust from an alternative fuel school bus of gases from combustion of alternative fuel used to propel an alternative fuel school bus, excluding equipment necessary for operation of a school bus on gasoline, diesel or any fuel other than alternative fuel.

(f) “Incremental cost” means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel school bus; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel school bus and the MSRP of the same make and model of school bus manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel school bus is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (f) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(g) “School district” means a public school district.

(h) “OEM alternative fuel motor vehicle” means an alternative fuel school bus manufactured by the original vehicle manufacturer (or its contractor) with the fuel system equipment installed as original equipment

by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(i) “Motor vehicle” shall have the meaning ascribed to such term in Section 27-59-3.

(j) “MSRP” means manufacturer’s suggested retail price.

(k) “Original purchase” means the purchase directly from a dealer at retail of a new OEM alternative fuel school bus which has never been titled.

(l) “Qualified alternative fuel motor vehicle fuel property” means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel school bus which results in a reduction in emissions.

(iii) A refueling system installed at a governmental entity location for the nonpublic refueling with alternative fuel of the governmental entity’s alternative fuel school buses.

(iv) A refueling station located in the state and operated by a school district for refueling of alternative fuel motor vehicles owned by the school district.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (l).

(vi) Portable or mobile refueling systems.

(m) “Reduction in emissions” means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) “Refueling system” means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) “Refueling station” means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) “Retrofit” means the installation of a conversion kit in a school bus designed to operate on gasoline, diesel or other fuel in order to convert or modify the bus vehicle into an alternative fuel school bus.

(q) “School bus” means a vehicle owned by a school district that is primarily used by the school district to transport students.

(2) As used in this subsection:

(a) "Alternative fuel" means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) "Conversion kit" means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(c) "Cost of qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) The actual cost per vehicle paid by the municipality for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (l)(i) of this subsection.

(ii) The incremental cost per vehicle paid by the municipality upon the purchase of an OEM alternative fuel motor vehicle for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (l)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(d) "Fuel system equipment" means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel motor vehicle, the delivery of alternative fuel to the engine of an alternative fuel motor vehicle, and the exhaust from an alternative fuel motor vehicle of gases from combustion of alternative fuel used to propel an alternative fuel motor vehicle, excluding equipment necessary for operation of a motor vehicle on gasoline, diesel or any fuel other than alternative fuel.

(e) "Incremental cost" means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel motor vehicle; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel motor vehicle and the MSRP of the same make and model of motor vehicle manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel motor vehicle is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (e) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(f) "Municipality" means an incorporated city, town or village in the State of Mississippi.

(g) "OEM alternative fuel motor vehicle" means an alternative fuel motor vehicle manufactured by the original vehicle manufacturer (or its

contractor) with the fuel system equipment installed as original equipment by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(h) “Motor vehicle” shall have the meaning ascribed to such term in Section 27-59-3.

(i) “MSRP” means manufacturer’s suggested retail price.

(j) “Alternative fuel motor vehicle” means a motor vehicle propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual fuel vehicle using alternative fuel as one of its fuels.

(k) “Original purchase” means the purchase directly from a dealer at retail of a new OEM alternative fuel motor vehicle which has never been titled.

(l) “Qualified alternative fuel motor vehicle fuel property” means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel motor vehicle which results in a reduction in emissions.

(iii) A refueling system installed at a municipality location for the nonpublic refueling with alternative fuel of the municipality’s alternative fuel motor vehicles.

(iv) A refueling station located in the state and operated by a municipality for refueling of alternative fuel motor vehicles owned by the municipality.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (l).

(vi) Portable or mobile refueling systems.

(m) “Reduction in emissions” means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) “Refueling system” means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) “Refueling station” means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) “Retrofit” means the installation of a conversion kit in a motor vehicle designed to operate on gasoline, diesel or other fuel in order to convert or modify such motor vehicle into an alternative fuel motor vehicle.

(3)(a) The Mississippi Development Authority shall establish a revolving loan program to provide loans to (i) school districts for the purpose of assisting school districts with paying the cost of qualified alternative fuel motor vehicle fuel property and (ii) municipalities for the purpose of assisting municipalities with paying the cost of qualified alternative fuel motor vehicle fuel property. Loans made under this section shall bear no interest.

(b) A school district or municipality desiring a loan under this section must submit an application to the Mississippi Development Authority. The application shall include:

- (i) A description of the purpose for which the loan is requested;
- (ii) The amount of the loan requested; and
- (iii) Any other information required by the Mississippi Development Authority.

(c) Repayments of loans made under this section shall be deposited to the credit of the Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund.

(4)(a) There is created in the State Treasury a special fund to be designated as the “Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund,” which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Mississippi Development Authority for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing loans under this section through the use of general obligation bonds. Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(4) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SOURCES: Laws, 2013, ch. 535, § 1, eff from and after July 1, 2013.

Editor’s Note — Section 1 of Chapter 535, Laws of 2013, enacted this section with two subsection (4) designations.

MISSISSIPPI DEVELOPMENT AUTHORITY JOB TRAINING GRANT
FUND

SEC.

57-1-451. Mississippi Development Authority Job Training Grant Fund created; use of funds.

§ 57-1-451. Mississippi Development Authority Job Training Grant Fund created; use of funds.

(1) There is created in the State Treasury a special fund to be known as the “Mississippi Development Authority Job Training Grant Fund” into which shall be deposited such money as provided in Section 27-65-75(21)(b). The money in the fund shall be used for the purpose of making job training grants to community and junior colleges, public universities and local workforce investment areas to pay a portion of the costs of providing training or retraining for employees of business enterprises that are eligible for the jobs tax credit authorized in Section 57-73-21. The fund shall be administered by the Mississippi Development Authority (MDA). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under this section.

(2) Subject to the provisions of this section, job training grants may be made by the MDA to a community or junior college, public university or local workforce investment area to pay costs incurred in training or retraining employees for a business enterprise that is eligible for the jobs tax credit authorized in Section 57-73-21. A business enterprise that chooses to utilize a job training grant under this section shall not be eligible for the job tax credit authorized in Section 57-73-21. The election to utilize a job training grant shall be made by the business enterprise before the creation of any jobs. The grant payments may be made during a five-year period beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by the MDA. The amount of the grants authorized by this section shall be seventy-five percent (75%) of the costs of training or retraining employees not to exceed:

(a) One Thousand Dollars (\$1,000.00) per job in counties designated as Tier One areas under Section 57-73-21;

(b) One Thousand Five Hundred Dollars (\$1,500.00) per job in counties designated as Tier Two areas under Section 57-73-21; and

(c) Two Thousand Dollars (\$2,000.00) per job in counties designated as Tier Three areas under Section 57-73-21.

(3) The MDA shall cease making job training grant payments if it determines the required number of jobs are not being maintained by the business enterprise.

(4) The MDA shall require that the business enterprise shall enter into binding commitments requiring that:

(a) A minimum number of jobs be maintained that shall not be less than the number of jobs required to be eligible for the jobs tax credit authorized in Section 57-73-21; and

(b) That if the minimum number of jobs are not maintained, all or a portion of the grant funds paid under this section, as determined by the MDA, shall be repaid by the business enterprise.

(5) The MDA shall develop, implement and administer the job training grant program authorized under this section and shall promulgate rules and regulations necessary for the development, implementation and administration of the program.

(6) A business enterprise desiring to utilize job training grants under this section must submit requests for job training grants to the MDA. The MDA shall review the request and determine if the business enterprise is eligible and if a payment shall be made from the fund. The liability of the State of Mississippi to make the job training grants authorized under this section shall be limited to the balance contained in the fund.

SOURCES: Laws, 2013, ch. 447, § 1, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 447, § 2 provides:

"From and after July 1, 2013, the State Fiscal Officer shall transfer all money in the MMEIA Tax Incentive Fund created in Section 57-101-3 to the Mississippi Development Authority Job Training Grant Fund created in Section 1 of this act [Section 57-1-451]."

Laws of 2013, ch. 447, § 6 provides:

"SECTION 6. Section 3 of this act shall take effect and be in force from and after its passage and the remainder of this act shall take effect and be in force from and after July 1, 2013."

CHAPTER 3

Agriculture and Industry Program

SEC.
57-3-33. Exemption from taxation of bonds, etc.; time limit for ad valorem tax exemption.

§ 57-3-1. Statement of legislative policy.

ATTORNEY GENERAL OPINIONS

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired

and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

§ 57-3-33. Exemption from taxation of bonds, etc.; time limit for ad valorem tax exemption.

The bonds authorized by this chapter, the income therefrom, all mortgages or deeds of trust executed as security therefor, all lease or purchase agreements made pursuant to the provisions hereof, and all purchases required to establish the enterprise and financed by bond proceeds shall be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the tax levied by Section 27-65-24(1)(b) and all projects and the revenue derived from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b). From and after July 1, 1989, there shall be no new exemption under this section or under Chapter 10, Title 57, Mississippi Code of 1972, from ad valorem taxes levied for school district purposes. The time of any ad valorem tax exemption provided for hereunder shall not exceed a total of ten (10) years, which shall run from the date of completion of the project. In no event shall the term of the ad valorem tax exemption provided for hereunder be limited, terminated or otherwise affected by payment in full of the bonds issued under this chapter or by the change from a leasehold to a fee title in the enterprise financed with bonds issued under this chapter.

SOURCES: Codes, 1942, § 8936-66; Laws, 1960, ch. 147, § 16; Laws, 1964, ch. 217, § 7; Laws, 1966, ch. 235, § 7; Laws, 1989, ch. 524, § 22; Laws, 1990 Ex Sess, ch. 71, § 4; Laws, 1992, ch. 518, § 4; Laws, 1995, ch. 355, § 2; Laws, 2010, ch. 449, § 6, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment rewrote the first sentence.

ATTORNEY GENERAL OPINIONS

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is levied expressly "for school district purposes"; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for "school district purposes." Beech, Mar. 17, 2006, A.G. Op. 06-0009.

The current corporate lessee of county-owned property first leased in 1963 under

the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

CHAPTER 4**Industrial Development Fund****§ 57-4-13. Levy of tax for repayment of indebtedness; proceedings upon default in repayment of indebtedness.**

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

CHAPTER 7**Sale or Development of Airport Lands, or Other Lands, for Industrial Purposes****§ 57-7-1. Sale or lease of surplus government lands for improvement for industrial and commercial purposes; improvement of property.****ATTORNEY GENERAL OPINIONS**

Section 57-7-1 does not contemplate or authorize municipal governing authorities to convey “development/air rights” upon a finding that the air space above municipally owned real property is “not necessary for governmental purposes.” McCluer, Jan. 26, 2006, A.G. Op. 05-0590.

Under the authority of Section 57-7-1, a town may lease surplus real property to a local industry without complying with the provisions of Section 21-17-1. Sennett, Feb. 10, 2006, A.G. Op. 06-0024.

Pursuant to Sections 19-7-3 and/or 57-7-1, a county cooperative service district may sell a building to a county without

necessity of advertising for bids. Sanders, Sept. 1, 2006, A.G. Op. 06-0349.

Under Miss. Code Ann. § 61-5-39, the Tunica County Airport Commission, a joint venture of the Town of Tunica and Tunica County, may dispose of its unused real property by leasing or selling it to a nonprofit organization for use as a homeless shelter, with the consent of the governing authorities of both the town and the county, and using the procedures outlined in Miss. Code Ann. §§ 19-7-3, 21-17-1 or 57-7-1. Dulaney, March 16, 2007, A.G. Op. #07-00125, 2007 Miss. AG LEXIS 107.

CHAPTER 10**Small Business Assistance**

Article 7.	Mississippi Small Business Financing Act	57-10-201
Article 11.	Bonds to Finance Economic Development Projects	57-10-401
Article 13.	Mississippi Small Business Assistance Act	57-10-501
Article 15.	State Small Business Credit Initiative	57-10-601

ARTICLE 7.

MISSISSIPPI SMALL BUSINESS FINANCING ACT.

SEC.

57-10-255. Tax-exempt status of company; state's right to remaining assets upon dissolution; mortgages, leases, etc., tax-exempt; time limit on ad valorem tax exemption; new ad valorem tax exemptions where tax levied for school district purposes.

§ 57-10-255. Tax-exempt status of company; state's right to remaining assets upon dissolution; mortgages, leases, etc., tax-exempt; time limit on ad valorem tax exemption; new ad valorem tax exemptions where tax levied for school district purposes.

(1) The company is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the company, shall at all times be exempt from all taxation by the state or any public subdivision thereof. If, after all indebtedness and other obligations of the company are discharged the company is dissolved, its remaining assets shall inure to the benefit of the state.

(2) All mortgages or deeds of trust executed as security therefor, all lease, loan or purchase agreements made pursuant to the provisions hereof, all purchases required to establish the enterprise and financed by proceeds from bonds issued pursuant to Chapter 10, Title 57, Mississippi Code of 1972, shall likewise be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the taxes levied by Section 27-65-24(1)(b), and all projects financed by the proceeds from such bonds and the revenue derived from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b), and except the tax levied under Chapter 7, Title 27, Mississippi Code of 1972. From and after July 1, 2002, there shall be no new ad valorem tax exemption authorized under this section unless approved by the appropriate local taxing authority.

(3) The time of any ad valorem tax exemption provided for hereunder shall not exceed a total of ten (10) years, which shall run from the date of the completion of the project. In no event shall the term of the ad valorem tax exemption provided for hereunder be limited, terminated or otherwise affected by payment in full of the bonds issued under this chapter or by the change from a leasehold to a fee title in the enterprise financed with bonds issued under this chapter.

(4) From and after July 1, 1990, there shall be no new exemption under this section from ad valorem taxes levied for school district purposes.

SOURCES: Laws, 1985, ch. 450, § 28; Laws, 1987, ch. 464, § 5; Laws, 1990 Ex Sess, ch. 71, § 16; Laws, 1992, ch. 518, § 5; Laws, 1995, ch. 355, § 3; Laws, 2002, ch. 498, § 1; Laws, 2010, ch. 449, § 7, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment in (2), inserted “and the taxes levied by Section 27-65-24(1)(b)” following “Section 27-65-21” and “and 27-65-24(1)(b)” after “Sections 27-65-21” near the end of the first sentence.

ARTICLE 11.

BONDS TO FINANCE ECONOMIC DEVELOPMENT PROJECTS.

SEC.

57-10-439. Exemption from taxation of income, profits, revenues, bonds, mortgages, deeds of trust and other agreements of corporation [Repealed effective October 1, 2015].

57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

§ 57-10-401. Definitions [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 1; Laws, 1994, ch. 525, § 2; reenacted without change, Laws, 1997, ch. 576, § 1; Laws, 1998, ch. 397, § 1; reenacted without change, Laws, 2000, ch. 425, § 1; reenacted without change, Laws, 2001, ch. 337, § 1; reenacted without change, Laws, 2005, ch. 399, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 68; reenacted without change, Laws, 2007, ch. 389, § 1; reenacted without change, Laws, 2011, ch. 519, § 1, eff from and after July 1, 2011.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-403. Legislative findings and declarations [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 2; reenacted without change, Laws, 1997, ch. 576, § 2; reenacted without change, Laws, 2000, ch. 425, § 2; reenacted without change, Laws, 2001, ch. 337, § 2; reenacted without change, Laws, 2005, ch. 399, § 2; reenacted without change, Laws, 2007, ch. 389, § 2; reenacted without change, Laws, 2011, ch. 519, § 2, eff from and after July 1, 2011.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-405. General powers and duties of corporation [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 3; reenacted without change, Laws, 1997, ch. 576, § 3; reenacted without change, Laws, 2000, ch. 425, § 3; reenacted without change, Laws, 2001, ch. 337, § 3; reenacted without change, Laws, 2005, ch. 399, § 3; reenacted without change, Laws, 2007, ch. 389, § 3; reenacted without change, Laws, 2011, ch. 519, § 3, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-407. Power of corporation to accept and expend monies [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 4; reenacted without change, Laws, 1997, ch. 576, § 4; reenacted without change, Laws, 2000, ch. 425, § 4; reenacted without change, Laws, 2001, ch. 337, § 4; reenacted without change, Laws, 2005, ch. 399, § 4; reenacted without change, Laws, 2007, ch. 389, § 4; reenacted without change, Laws, 2011, ch. 519, § 4, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-409. Financing agreements [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 5; Laws, 1994, ch. 340, § 3; Laws, 1994, ch. 525, § 3; Laws, 1997, ch. 576, § 5; reenacted without change, Laws, 2000, ch. 425, § 5; reenacted without change, Laws, 2001, ch. 337, § 5; reenacted without change, Laws, 2005, ch. 399, § 5; reenacted without change, Laws, 2007, ch. 389, § 5; reenacted without change, Laws, 2011, ch. 519, § 5, eff from and after July 1, 2011.

Editor's Note — Section 27-3-4 provides that the terms “‘Mississippi State Tax Commission,’ ‘State Tax Commission,’ ‘Tax Commission’ and ‘commission’ appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-411. Certification of company's state income tax liability and amount of tax credits [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 6; reenacted without change, Laws, 1997, ch. 576, § 6; reenacted without change, Laws, 2000, ch. 425, § 6; reenacted without change, Laws, 2001, ch. 337, § 6; reenacted without change, Laws, 2005, ch. 399, § 6; reenacted without change, Laws, 2007, ch. 389, § 6; reenacted without change, Laws, 2011, ch. 519, § 6, eff from and after July 1, 2011.

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-413. Job development assessment fee [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 7; Laws, 1994, ch. 525, § 4; Laws, 1997, ch. 576, § 7; reenacted without change, Laws, 2000, ch. 425, § 7; reenacted without change, Laws, 2001, ch. 337, § 7; reenacted without change, Laws, 2005, ch. 399, § 7; reenacted without change, Laws, 2007, ch. 389, § 7; reenacted without change, Laws, 2011, ch. 519, § 7, eff from and after July 1, 2011.

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-415. Payment of revenue bonds; security [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 8; reenacted without change, Laws, 1997, ch. 576, § 8; reenacted without change, Laws, 2000, ch. 425, § 8; reenacted without change, Laws, 2001, ch. 337, § 8; reenacted without change, Laws, 2005, ch. 399, § 8; reenacted without change, Laws, 2007, ch. 389, § 8; reenacted without change, Laws, 2011, ch. 519, § 8, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-417. Bonds as limited obligation of corporation; personal liability of member or officer of corporate board [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 9; reenacted without change, Laws, 1997, ch. 576, § 9; reenacted without change, Laws, 2000, ch. 425, § 9; reenacted without change, Laws, 2001, ch. 337, § 9; reenacted without change, Laws, 2005, ch. 399, § 9; reenacted without change, Laws, 2007, ch. 389, § 9; reenacted without change, Laws, 2011, ch. 519, § 9, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-419. Issuance of bonds generally; use of proceeds; interim receipts, temporary certificates, replacement certificates [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 10; reenacted without change, Laws, 1997, ch. 576, § 10; reenacted without change, Laws, 2000, ch. 425, § 10; reenacted without change, Laws, 2001, ch. 337, § 10; reenacted without change, Laws, 2005, ch. 399, § 10; reenacted without change, Laws, 2007, ch. 389, § 10; reenacted without change, Laws, 2011, ch. 519, § 10, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-421. Additional provisions in bond issue resolution [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 11; reenacted without change, Laws, 1997, ch. 576, § 11; reenacted without change, Laws, 2000, ch. 425, § 11; reenacted without change, Laws, 2001, ch. 337, § 11; reenacted without change, Laws, 2005, ch. 399, § 11; reenacted without change, Laws, 2007, ch. 389, § 11; reenacted without change, Laws, 2011, ch. 519, § 11, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-423. Pledge made by corporation; recording of resolution or other instrument [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 12; reenacted without change, Laws, 1997, ch. 576, § 12; reenacted without change, Laws, 2000, ch. 425, § 12; reenacted without change, Laws, 2001, ch. 337, § 12; reenacted without change, Laws, 2005, ch. 399, § 12; reenacted without change, Laws, 2007, ch. 389, § 12; reenacted without change, Laws, 2011, ch. 519, § 12, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-425. Purchase of bonds by corporation [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 13; reenacted without change, Laws, 1997, ch. 576, § 13; reenacted without change, Laws, 2000, ch. 425, § 13; reenacted without change, Laws, 2001, ch. 337, § 13; reenacted without change, Laws, 2005, ch. 399, § 13; reenacted without change, Laws, 2007, ch. 389, § 13; reenacted without change, Laws, 2011, ch. 519, § 13, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-427. Trust indentures [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 14; reenacted without change, Laws, 1997, ch. 576, § 14; reenacted without change, Laws, 2000, ch. 425, § 14; reenacted without change, Laws, 2001, ch. 337, § 14; reenacted without change, Laws, 2005, ch. 399, § 14; reenacted without change, Laws, 2007, ch. 389, § 14; reenacted without change, Laws, 2011, ch. 519, § 14, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-429. Signatures on bonds [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 15; reenacted without change, Laws, 1997, ch. 576, § 15; reenacted without change, Laws, 2000, ch. 425, § 15; reenacted

without change, Laws, 2001, ch. 337, § 15; reenacted without change, Laws, 2005, ch. 399, § 15; reenacted without change, Laws, 2007, ch. 389, § 15; reenacted without change, Laws, 2011, ch. 519, § 15, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-431. Establishment of funds and accounts [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 16; reenacted without change, Laws, 1997, ch. 576, § 16; reenacted without change, Laws, 2000, ch. 425, § 16; reenacted without change, Laws, 2001, ch. 337, § 16; reenacted without change, Laws, 2005, ch. 399, § 16; reenacted without change, Laws, 2007, ch. 389, § 16; reenacted without change, Laws, 2011, ch. 519, § 16, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-433. Contracts with bondholders; securing of moneys held for payment of bonds [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 17; reenacted without change, Laws, 1997, ch. 576, § 17; reenacted without change, Laws, 2000, ch. 425, § 17; reenacted without change, Laws, 2001, ch. 337, § 17; reenacted without change, Laws, 2005, ch. 399, § 17; reenacted without change, Laws, 2007, ch. 389, § 17; reenacted without change, Laws, 2011, ch. 519, § 17, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-435. Effect of amendments to Sections 57-10-401 through 57-10-445 enacted after July 1, 1993 [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 18; reenacted without change, Laws, 1997, ch. 576, § 18; reenacted without change, Laws, 2000, ch. 425, § 18; reenacted without change, Laws, 2001, ch. 337, § 18; reenacted without change, Laws, 2005, ch. 399, § 18; reenacted without change, Laws, 2007, ch. 389, § 18; reenacted without change, Laws, 2011, ch. 519, § 18, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-437. Payment of expenses of corporation; limitation on liability [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 19; reenacted without change, Laws, 1997, ch. 576, § 19; reenacted without change, Laws, 2000, ch. 425, § 19; reenacted without change, Laws, 2001, ch. 337, § 19; reenacted without change, Laws, 2005, ch. 399, § 19; reenacted without change, Laws, 2007, ch. 389, § 19; reenacted without change, Laws, 2011, ch. 519, § 19, eff from and after July 1, 2011.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-439. Exemption from taxation of income, profits, revenues, bonds, mortgages, deeds of trust and other agreements of corporation [Repealed effective October 1, 2015].

(1) The corporation is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the corporation, shall at all times be exempt from all taxation by the state or any political subdivision thereof. If, after all indebtedness and other obligations of the corporation are discharged, the corporation is dissolved, its remaining assets shall inure to the benefit of the state.

(2) With the approval of the appropriate local taxing authority, all mortgages or deeds of trust executed as security therefor, all lease or purchase agreements made pursuant to the provisions hereof, and all purchases required to establish the industrial enterprise and financed by proceeds from bonds issued under Sections 57-10-401 through 57-10-445, shall likewise be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the tax levied by Section 27-65-24(1)(b), and except ad valorem taxes levied for school district purposes. All projects and the revenue derived therefrom from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b), except the tax levied under Chapter 7, Title 27, Mississippi Code of 1972, and except ad valorem taxes levied for school district purposes.

SOURCES: Laws, 1993, ch. 565, § 20; Laws, 1994, ch. 525, § 5; reenacted without change, Laws, 1997, ch. 576, § 20; reenacted without change, Laws, 2000, ch. 425, § 20; reenacted without change, Laws, 2001, ch. 337, § 20; reenacted without change, Laws, 2005, ch. 399, § 20; reenacted without change, Laws, 2007, ch. 389, § 20; Laws, 2010, ch. 449, § 8; reenacted without change, Laws, 2011, ch. 519, § 20, eff from and after July 1, 2011.

Amendment Notes — The 2010 amendment in (2), inserted “and the taxes levied by Section 27-65-24(1)(b)” following “Section 27-65-21” and “and 27-65-24(1)(b)” after “Sections 27-65-21” near the end of the first sentence.

The 2011 amendment reenacted the section without change.

§ 57-10-441. Investment in bonds; bonds as security for deposits [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 21; reenacted without change, Laws, 1997, ch. 576, § 21; reenacted without change, Laws, 2000, ch. 425, § 21; reenacted without change, Laws, 2001, ch. 337, § 21; reenacted without change, Laws, 2005, ch. 399, § 21; reenacted without change, Laws, 2007, ch. 389, § 21; reenacted without change, Laws, 2011, ch. 519, § 21, eff from and after July 1, 2011.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-443. Annual report of corporation [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 22; reenacted without change, Laws, 1997, ch. 576, § 22; reenacted without change, Laws, 2000, ch. 425, § 22; reenacted without change, Laws, 2001, ch. 337, § 22; reenacted without change, Laws, 2005, ch. 399, § 22; reenacted without change, Laws, 2007, ch. 389, § 22; reenacted without change, Laws, 2011, ch. 519, § 22, eff from and after July 1, 2011.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-445. Construction of Sections 57-10-401 through 57-10-445 [Repealed effective October 1, 2015].

SOURCES: Laws, 1993, ch. 565, § 23; reenacted without change, Laws, 1997, ch. 576, § 23; reenacted without change, Laws, 2000, ch. 425, § 23; reenacted without change, Laws, 2001, ch. 337, § 23; reenacted without change, Laws, 2005, ch. 399, § 23; reenacted without change, Laws, 2007, ch. 389, § 23; reenacted without change, Laws, 2011, ch. 519, § 23, eff from and after July 1, 2011.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

Sections 57-10-401 through 57-10-445 and 27-7-22.3 shall be repealed from and after October 1, 2015.

SOURCES: Laws, 1993, ch. 565, § 29; Laws, 1996, ch. 553, § 7; Laws, 1997, ch. 576, § 26; Laws, 2000, ch. 425, § 25; Laws, 2001, ch. 337, § 25; reenacted and amended, Laws, 2005, ch. 399, § 25; Laws, 2007, ch. 389, § 25; Laws, 2011, ch. 519, § 25, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment extended the date of the repealer for §§ 57-10-401 through 57-10-445 and 27-7-22.3 by substituting “October 1, 2015” for “October 1, 2011.”

ARTICLE 13.

MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT.

SEC.

- | | |
|------------|-----------------------------------------------------------------------------------------|
| 57-10-505. | Definitions. |
| 57-10-511. | Grants of funds by MDA. |
| 57-10-533. | Attorney General to represent seller in issuing, selling and validating bonds or notes. |

§ 57-10-505. Definitions.

The following words and phrases when used in this article shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(a) “Assistance” means a loan to a small business or an equity investment in a small business by a planning and development district in accordance with this article.

(b) “DECD” means the Mississippi Development Authority.

(c) “Equity investment” means an investment in the ownership of a small business incorporated in Mississippi by a planning and development district in accordance with this article.

(d) “General Fund” means the General Fund of the State of Mississippi.

(e) “Loan” means a loan by a planning and development district to a small business in accordance with this article.

(f) “MDA” means the Mississippi Development Authority.

(g) “Planning and development districts” means an organized planning and development district in Mississippi.

(h) “Program” means the Mississippi Small Business Assistance Program established in this article.

(i) “Qualified entities” means small business investment corporations, community development corporations and other similar entities approved by the Mississippi Business Finance Corporation to participate in the program.

(j) “Seller” means the State Bond Commission.

(k) “Small business” means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars (\$7,000,000.00) in net worth or less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in net annual profit after taxes.

SOURCES: Laws, 1993, ch. 566, § 3; Laws, 2001, ch. 428, § 2; Laws, 2001, ch. 537, § 2; Laws, 2010, ch. 533, § 10, eff from and after passage (approved Apr. 16, 2010.)

Editor’s Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2010 amendment substituted “less than Seven Million Dollars (\$7,000,000.00) in net worth or less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in net annual profit after taxes” for “less than Two Million Dollars (\$2,000,000.00) in net worth or less than Three Hundred Fifty Thousand Dollars (\$350,000.00) in net annual profit after taxes” in (k).

§ 57-10-511. Grants of funds by MDA.

MDA shall grant funds under this article to a planning and development district or qualified entity in accordance with the following terms and conditions:

(a) Grant funds received by a planning and development district or qualified entity in accordance with this article shall be used by the planning and development district or qualified entity to establish a revolving assistance fund for the purpose of providing assistance to small businesses in accordance with this article. Except as otherwise allowed in this article, all principal and interest payments by small businesses in repayment of such assistance shall be eligible for and used by the planning and development district or qualified entity for additional assistance to small businesses in accordance with this article.

(b) Each planning and development district meeting the criteria set forth in this article shall receive an initial grant of not to exceed One Million Dollars (\$1,000,000.00) for the purpose of establishing the program within its area in accordance with this article. Each qualified entity meeting the criteria set forth in this article shall be eligible to receive an initial grant of Five Hundred Thousand Dollars (\$500,000.00) for the purpose of establishing the program within the area it serves in accordance with this article. The total amount of initial grants to planning and development districts shall not exceed Ten Million Dollars (\$10,000,000.00) and the total amount of initial grants for qualified entities shall not exceed Two Million Dollars (\$2,000,000.00). Each planning and development district or qualified entity receiving an initial grant shall have twelve (12) months in which to make binding commitments to provide assistance to small businesses in the principal amount of the initial grant in accordance with this article. Grant funds not committed to provide assistance to small businesses at the end of

twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such initial grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(c) After all of the initial grant funds have been provided as assistance to small businesses in accordance with this article, MDA shall distribute additional grant funds to each planning and development district or qualified entity qualified under this article to receive and requesting such funds in whatever amounts MDA deems appropriate and when needed by such planning and development districts or qualified entities to provide additional assistance to small businesses in accordance with this article. The schedule for distributing such funds shall be determined by MDA. Funds distributed to planning and development districts and qualified entities pursuant to this paragraph shall be in addition to funds distributed to planning and development districts and qualified entities pursuant to paragraph (b) of this section. The total amount of grants issued pursuant to this paragraph shall not exceed Twenty Million Dollars (\$20,000,000.00) for planning and development districts or qualified entities. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(d) A planning and development district or qualified entity participating in the program may utilize an amount equal to not more than fifty percent (50%) of interest earned on assistance provided to small businesses in accordance with this article or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, for administration and management of the program, unless specifically authorized to utilize more by MDA; however, any interest earned on grant funds held by a planning and development district or qualified entity prior to the utilization of such grant

funds to provide assistance to small businesses shall be placed in the revolving assistance fund of the planning and development district or qualified entity and shall not be expended for administration or management costs. Planning and development districts and qualified entities may retain an amount equal to fifty percent (50%) of the interest earned on repayment funds that are being held on deposit in anticipation of relending, or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, to aid in the administration and management of the program. Each planning and development district and qualified entity shall file annually with the Secretary of the Senate and the Clerk of the House of Representatives not later than the first day of each regular legislative session a report which details any interest retained or utilized by the planning and development district or qualified entity pursuant to this paragraph (d).

(e) If a planning and development district or qualified entity participating in the program experiences losses from assistance provided pursuant to the program in excess of sixty percent (60%) of the amount of grant funds received by the planning and development district or qualified entity, the planning and development district or qualified entity shall repay the State of Mississippi the amount of such losses in excess of sixty percent (60%) by delivering that amount to the State Treasury for deposit in the General Fund.

(f) MDA shall assist each planning and development district or qualified entity participating in the program in connection with such planning and development district's or qualified entity's compliance with this article.

(g) Each planning and development district or qualified entity participating in the program shall submit the following reports to the MDA:

(i) An annual audit of grant funds received in connection with the program; and

(ii) A semiannual report on July 30 and January 30 of each year, describing all assistance provided to small businesses pursuant to the program, such reports to include without limitation the following: a description of each small business receiving assistance; the project to be assisted and purpose of assistance; a description of each loan and equity investment, including the terms and conditions thereof and use of the assistance funds by the small business; history of the assistance pool, including principal amount loaned, interest earned, interest expended for administration and management, principal amount of equity investments, assistance funds available, and losses; and a statement of jobs created or retained as a result of the assistance program.

(h) If MDA determines that a district or entity has provided assistance to small businesses in a manner inconsistent with the provisions of this article, then the amount of such assistance so provided shall be withheld by MDA from any additional grant funds to which the district or entity becomes entitled under this article. If MDA determines, after notifying such district or entity twice in writing and providing such district or entity a reasonable

opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this article in connection with the program, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.

(i) If MDA determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such district or entity a reasonable opportunity to take corrective action, that a planning and development district or a qualified entity administering a revolving assistance fund under the provisions of this article is not actively engaged in lending as defined by the rules and regulations of MDA, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.

(j) Notwithstanding any other provision of this article to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its revolving assistance fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its revolving assistance fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (j) must be repaid to the district's revolving assistance fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its revolving assistance fund to provide temporary funding under this paragraph (j) on more than two (2) occasions during a calendar year. A planning and development district may

provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a revolving assistance fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the revolving assistance fund on the date the district first provides temporary funding during the calendar year.

SOURCES: Laws, 1993, ch. 566, § 6; Laws, 1995, ch. 602, § 1; Laws, 1996, ch. 528, § 1; Laws, 1997, ch. 573, § 1; Laws, 1998, ch. 597, § 1; Laws, 2000, ch. 398, § 1; Laws, 2000, ch. 607, § 1; Laws, 2001, ch. 428, § 1; Laws, 2001, ch. 537, § 1; Laws, 2003, ch. 373, § 1; Laws, 2010, ch. 533, § 11, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2010 amendment, in (d), in the first and second sentences, inserted "an amount equal to" and "or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount," and made a minor stylistic change in the first sentence; and in (g)(ii), substituted "and use of the assistance funds by the small business" for "and use of the funds assistance by the small business."

§ 57-10-533. Attorney General to represent seller in issuing, selling and validating bonds or notes.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this article.

SOURCES: Laws, 1993, ch. 566, § 17; Laws, 2012, ch. 546, § 23, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning.

ARTICLE 15.

STATE SMALL BUSINESS CREDIT INITIATIVE.

SEC.

57-10-601. Definitions; Mississippi Development Authority designated agency for implementation of state program and participation in federal initiative.

§ 57-10-601. Definitions; Mississippi Development Authority designated agency for implementation of state program and participation in federal initiative.

(1) As used in this section:

(a) “Act” means the State Small Business Credit Initiative Act of 2010 (Public Law 111-240).

(b) “State program” has the meaning ascribed to such term in the State Small Business Credit Initiative Act of 2010 (Public Law 111-240).

(c) “MDA” means the Mississippi Development Authority.

(2) The MDA is designated as the agency to implement a state program and participate in the State Small Business Credit Initiative established under the act.

(3) The MDA is authorized and empowered to take any action necessary to establish and implement a state program that meets all the requirements of the act.

(4) The MDA is authorized and empowered to administer funds transferred to the state under the act.

(5) The Executive Director of MDA is authorized and empowered to promulgate and put into effect all reasonable rules and regulations that he may deem necessary to carry out the provisions of this section and comply with the act.

SOURCES: Laws, 2011, ch. 480, § 40, eff from and after passage (approved Apr. 6, 2011.)

Federal Aspects — State Small Business Credit Initiative Act of 2010 (P.L. 111-240), see 12 USCS §§ 5701 et seq.

CHAPTER 13

Research and Development Center

IN GENERAL

§ 57-13-23. Mississippi Automated Resource Information System (MARIS).

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

CHAPTER 21

State Chemical Laboratory

SEC.

57-21-7. State chemist.

- 57-21-9. Purposes.
- 57-21-11. Organization.
- 57-21-13. Personnel.

§ 57-21-7. State chemist.

The chief executive officer of the laboratory shall be the State Chemist.

(a) **Qualifications:** — The State Chemist shall be an individual who has earned the Doctor of Philosophy degree or its equivalent at a recognized university or college qualified to grant such degrees. The major field of his or her training should be preferably in traditional or applied fields of chemistry or biochemistry, but other disciplines may be acceptable if the individual has experience qualifying him or her otherwise. He or she should also have knowledge by training or experience of agricultural, industrial or health-related fields. The candidate for State Chemist must be acceptable as a faculty member in a department of the university appropriate to his or her earned doctorate degree.

(b) **Appointment:** — The State Chemist shall be appointed by the president of the university, with the advice and consent of the Senate, for a term of six (6) years; and the said State Chemist shall serve for said six-year term and until his successor shall have been appointed and qualified. However, it is provided that the said State Chemist may be removed from office by the Board of Trustees of State Institutions of Higher Learning upon the demonstration of his inability to serve due to illness, incompetence, malfeasance in office, dereliction of duty or moral turpitude. The Board of Trustees of State Institutions of Higher Learning shall fix the annual salary of the State Chemist, who shall be paid from the budget of the Mississippi State Chemical Laboratory or from the budget of the university, or from both, whichever is deemed desirable by the Board of Trustees of State Institutions of Higher Learning.

(c) **Status:** — The State Chemist shall simultaneously hold an appointment as professor in a department of the university appropriate to the discipline of their doctorate degree. He or she may be granted tenure as a faculty member in accordance with the rules current at the university upon his or her appointment. As a state regulatory official, the duties of the State Chemist are service in nature. However, as time permits, the State Chemist may teach or direct research as part of his or her professional duties, and may serve in other administrative positions as deemed desirable with the consent and approval of the president of the university and the board of trustees. He or she shall receive appropriate reimbursement for such services.

(d) **Responsibility:** — The State Chemist shall be responsible to and shall report to the president of the university or a designee of the president.

(e) **Duties:** — The State Chemist shall:

1. Serve as the chief executive officer and director of the State Chemical Laboratory.

2. Recommend the appointment, discharge, annual salaries, duties, and titles of administrative, technical and support personnel and staff of the laboratory to assist him or her in carrying out its authorized functions.

3. Prepare and submit budget requests for the laboratory to the appropriate agency, subject to approval by the president of the university and the board of trustees. The State Chemist shall present such requests before the Legislative Budget Office and legislative committees. He or she shall prepare an annual budget for operation of the laboratory from appropriated or special funds or other income available, and shall make monthly, quarterly and other reports of such income and expenditures to the appropriate agencies as required by law.

4. Maintain an inventory of laboratory equipment and report it appropriately to the proper agencies as required by law.

5. Prepare annual or biennial reports and special reports as needed of laboratory activities, programs and recommendations. Such reports shall be submitted to governmental heads and agencies as required by statutes, to the president of the university, the Board of Trustees of State Institutions of Higher Learning, and to the chief executive officer of each agency with which it cooperates.

6. Serve on such state or national agencies, commissions, boards, organizations or committees as required by law.

7. Conduct other business necessary and desirable for proper discharge of his or her responsibilities to the state or as may be stipulated here or elsewhere in the laws of Mississippi.

SOURCES: Codes, 1942, § 6699-104; Laws, 1970, ch. 259, § 4; Laws, 1984, ch. 488, § 241; Laws, 2010, ch. 399, § 1, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment made gender neutral changes throughout the section; rewrote (a) and (c); in (d), added “or a designee of the president”; in (e)1., inserted “State Chemical”; and in (e)7., substituted “responsibilities to the state” for “responsibilities to the university.”

§ 57-21-9. Purposes.

The laboratory is established for the following purposes:

(a) To provide analytical chemical and bacteriological services for regulatory control, in cooperation with the Mississippi Department of Agriculture and Commerce, of the quality of feeds, oil-seed meals, fertilizers and economic poisons offered for sale in Mississippi. The State Chemist shall also share responsibility for labeling and standards of such goods with these agencies.

(b) To conduct chemical, bacteriological and physical tests of foods sold in the state, regulating the quality and labeling of such foods.

(c) To conduct chemical and physical tests on petroleum products offered for sale in the state.

(d) To provide chemically oriented consultation, problem-solving services and supporting analytical chemistry for other state organizations and

agencies such as the Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Department of Environmental Quality, the State Geologist, the Board of Health, the Mississippi Development Authority, the University Research Center, the Veterinary Diagnostic Laboratory, the Highway Patrol, the Mississippi Crime Laboratory, the Mississippi Department of Agriculture and Commerce, the Cooperative Extension Service and the Agricultural and Forestry Experimental Station as funds and resources permit.

(e) To provide chemical consultation, toxicological analyses and scientific services for the solution of problems of individual citizens and firms of the state who are engaged in agricultural or industrial endeavors furthering the economic growth or development of Mississippi.

(f) To conduct research and development programs associated with the discharge of these responsibilities.

(g) To carry out any program or duty which may be authorized or delegated to it by future legislation.

SOURCES: Codes, 1942, § 6699-105; Laws, 1970, ch. 259, § 5; Laws, 1972, ch. 369, § 13; Laws, 1986, ch. 395, § 14; Laws, 1986, ch. 459, § 34; Laws, 1988, ch. 518, § 59; Laws, 1991, ch. 530, § 8; Laws, 2010, ch. 399, § 2, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment substituted “the Mississippi Development Authority” for “the Mississippi Department of Economic and Community Development” in (d).

§ 57-21-11. Organization.

The laboratory shall be organized as necessary to properly conduct the program responsibilities and purposes outlined generally in Section 57-21-9 and specifically stated in various state laws. A minimum of four (4) divisions as described below is authorized; extra major divisions needed to organize the laboratory work may be established by the State Chemist.

(a) Chemical Regulatory Division — This division shall carry out regulatory control programs in food, animal feeds, fertilizers, economic poisons, paints and varnishes, and similar programs legally authorized.

(b) Petroleum Products Division — This division shall conduct testing on petroleum and related products. Any person desiring testing of petroleum and related products shall pay to the State Chemist the actual cost of such testing.

(c) Industrial and Agricultural Services Division — This division shall provide applied scientific and engineering consultation to industries and individuals residing in or doing business in the state. Such services might include, among other things, chemical or physical analyses, nondestructive or destructive physical testing, bacteriological examinations and tests, on-site examinations of problems, sampling and limited quality control analyses, research, or other activities related to the improvement of processes, products, or raw materials. Such analyses or examinations will be

directed towards solutions of problems of state industries, farmers, or citizens. The laboratory may charge for its services at established prices or may negotiate with the client for a service, consultation, or research contract at terms agreeable to the client and the State Chemist.

The guiding principle in such services shall be that they contribute to the economic growth and development of Mississippi or to the welfare of its citizens, and that major projects shall be self-supporting but nonprofit.

This division may perform such services using its own resources, or it may arrange for additional technical aid, consultation by other university faculty members, and use of facilities, services, or equipment of other university departments on a reimbursement basis. Any such arrangement shall always be established with the approval of the university administration.

Agricultural analyses for individual citizens may be charged on a cost basis. Fees for services shall be established by regulations by the State Chemist.

Services may be provided to other state agencies on an equivalent-cost exchange basis. The agency shall be invoiced for the cost of services as negotiated between the laboratory and the agency. Any special equipment required to conduct such services shall be a part of the assessed charge.

All such services of this division may be made available to any state agency, firm, or individual only as far as personnel, funds, and equipment permit. The division reserves the right to refuse any services which interfere with other functions of the laboratory or which may generate a conflict of interest.

(d) Research Division — This division shall conduct self-supported, grant, or contract research. This research is directed toward problem solving, having immediate or potential influence on the economic growth and promotion of agriculture or industry in Mississippi, or improvement of the laboratory's analytical capabilities in support of its current or anticipated future regulatory functions. The division is authorized to apply for, negotiate for payment, and conduct research on grants or contracts from federal and state agencies, industrial firms, and individuals or groups of individuals.

SOURCES: Codes, 1942, § 6699-106; Laws, 1970, ch. 259, § 6; Laws, 1986, ch. 395, § 15; Laws, 2010, ch. 399, § 3, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment, in (c), in the first paragraph, in the next-to-last sentence, deleted “and shall be provided without charge until the expense of any case or project exceeds One Hundred Dollars (\$100.00)” from the end, and in the last sentence, deleted “Above this cost” from the beginning, in the second paragraph, deleted “free or paid” following “services,” in the fourth paragraph, in the first sentence, deleted “for” following “charged” and deleted “allowing five (5) free samples per calendar year per individual” from the end, and in the last sentence, substituted “Fees for services” for “Charges,” rewrote the fifth paragraph, and substituted “this division may” for “this division shall” in the first sentence of the sixth paragraph; and rewrote (d).

§ 57-21-13. Personnel.

Administrative, technical, and support personnel of all divisions of the laboratory shall be employees of the Mississippi State Chemical Laboratory. However, all employees will have rights, privileges, and responsibilities pertaining thereto, including all fringe benefits available to the general university staff. Recommendations for appointment, discharge, salaries, duties, and position titles shall be made by the State Chemist to the president of the university, whose approval shall be sufficient for all nonteaching posts. Laboratory members recommended for appointment to joint laboratory-teaching positions shall be approved in a manner customary with other university faculty or staff appointments.

SOURCES: Codes, 1942, § 6699-107; Laws, 1970, ch. 259, § 7; Laws, 1980, ch. 561, § 22; Laws, 1986, ch. 395, § 16; Laws, 2010, ch. 399, § 4, *eff from and after July 1, 2010.*

Amendment Notes — The 2010 amendment substituted the first two sentences for the former first sentence, which read: “Administrative, technical, and support personnel of all divisions of the laboratory shall be members of the general faculty of the university, having rights, privileges, and responsibilities pertaining thereto, including all fringe benefits available to the general (nonteaching) faculty,” and in the last sentence, substituted “shall be approved in a manner customary with other university faculty or staff appointments” for “shall be approved by the board of trustees as customary with other university faculty appointments.”

CHAPTER 26

Tourism Project Incentive Program; Theme Parks, Entertainment Centers, Scenic Attractions, etc.

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|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC. | |
| 57-26-1. | Definitions. |
| 57-26-3. | Creation of Tourism Project Sales Tax Incentive Fund; incentive payments. |
| 57-26-5. | Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required. |
| 57-26-7. | Prohibition against Mississippi Development Authority approving applications submitted after June 30, 2014, for certain projects. |

§ 57-26-1. Definitions.

As used in Sections 57-26-1 through 57-26-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a) “Approved project costs” means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project; however, for the purposes of a tourism project described in paragraph (d)(iv) of this section, such costs include only those incurred after

January 1, 2011, relating to the hotel portion of the project consisting of facilities used for lodging and common areas in that portion of the project. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third-party verification of costs. Approved project costs may not increase regardless of the actual costs incurred by the project.

(b) “Approved participant” means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-26-5.

(c) “MDA” means the Mississippi Development Authority.

(d) “Tourism project” shall include any of the following as may be approved by the MDA:

(i) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than Ten Million Dollars (\$10,000,000.00);

(ii) A hotel with a minimum private investment of Forty Million Dollars (\$40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars (\$40,000,000.00);

(iii) A public golf course with a minimum private investment of Ten Million Dollars (\$10,000,000.00);

(iv) A full service hotel with a minimum private investment of Fifteen Million Dollars (\$15,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite which amount shall be included within the minimum private investment of Fifteen Million Dollars (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or suites, and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority;

(v) A tourism attraction located within an “entertainment district” as defined in Section 17-29-3 that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week;

(vi) A cultural retail attraction;

(vii) A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the

tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week.

The term “tourism project” does not include any licensed gaming establishment owned, leased or controlled by a business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.; however, the term “tourism project” may include a project described in this paragraph (d) that is owned, leased or controlled by such a business, corporation or entity or in which the business, corporation or entity has a direct or indirect financial interest if the project is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license and is not part of a licensed gaming establishment in which gaming activities are conducted.

The term “tourism project” does not include any facility within the project whose primary business is retail sales or any expansions of existing projects; however, pro shops, souvenir shops, gift shops, concessions and similar retail activities, and cultural retail attractions may be included within the definition of the term “tourism project.” In addition, retail activities, regardless of whether the primary business is retail sales, that are part of a resort development may be included within the definition of “tourism project.”

(e) “Resort development” means a travel destination development with a minimum private investment of One Hundred Million Dollars (\$100,000,000.00) and which consists of (i) a hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite, and (ii) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to forty percent (40%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

(f) “Cultural retail attraction” means a project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars (\$50,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority and which:

- (i) Is located in a qualified resort area as defined in Section 67-1-5;
- (ii) Is a part of a master-planned development with a total investment of not less than One Hundred Million Dollars (\$100,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority;
- (iii) Has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet of heated and cooled space; and

(iv) Has a minimum investment of One Million Dollars (\$1,000,000.00) in one or more of the following:

1. Art created by Mississippi artists or portraying themes specific to Mississippi;

2. Memorabilia, signage or historical markers which serve to promote the State of Mississippi;

3. Audio/visual equipment used to showcase Mississippi artists;

4. A minimum of one thousand two hundred and fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

(g) “Retail activity” means businesses whose inventory consists primarily of upscale name brands or their equivalent as determined by the MDA.

(h) “State” means the State of Mississippi.

SOURCES: Laws, 2007, ch. 574, § 1; Laws, 2009, ch. 356, § 1; Laws, 2011, ch. 479, § 1; Laws, 2013, ch. 304, § 1; Laws, 2013, ch. 558, § 2, *eff from and after July 1, 2013*.

Joint Legislative Committee Note — Section 1 of ch. 304, Laws of 2013, effective from and after July 1, 2013 (approved February 26, 2013), amended this section. Section 2 of ch. 558, Laws of 2013, effective from and after July 1, 2013 (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 558, Laws of 2013, which contains language that specifically provides that it supersedes § 57-26-1 as amended by ch. 304, Laws of 2013.

Amendment Notes — The 2009 amendment, in (d), inserted “convention centers, professional sports facilities, spas” in (i) and rewrote (iii); added (e) and (f); and redesignated former (e) as present (g).

The 2011 amendment added language beginning “however, for the purposes of a tourism project described in paragraph (d)(iv)” at the end of the first sentence in (a); and added (d)(iv), and (v).

The first 2013 amendment (ch. 304), added (d)(vi); inserted “and cultural retail attractions” in the first sentence of the last paragraph of (d)(vi); added (f) and redesignated the remaining subsections accordingly.

The second 2013 amendment (ch. 558), added (d)(vii); and made minor stylistic changes.

Cross References — MDA prohibited from approving applications submitted after June 30, 2014, pursuant to § 57-26-5, for projects that include any resort development, see § 57-26-7.

§ 57-26-3. Creation of Tourism Project Sales Tax Incentive Fund; incentive payments.

(1)(a) There is created in the State Treasury a special fund to be known as the “Tourism Project Sales Tax Incentive Fund,” into which shall be deposited such money as provided in Section 27-65-75(16). The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the

credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under Sections 57-26-1 through 57-26-5.

(b) Subject to the provisions of this section, incentive payments may be made by the MDA to an approved participant that incurs approved project costs to locate a tourism project in the state. The payments to an approved participant shall be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the diversions required in Section 27-65-75(7) and (8). The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The aggregate amount of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project. Expansions, enlargements or additional investments made by an approved participant will not increase authorized incentive payments certified by the MDA. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to an approved participant on the occurrence of the earlier of:

(i) The date that an aggregate amount of thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project has been paid to the approved participant; or

(ii) Fifteen (15) years after the date the tourism project opens for commercial operation.

(2) At such time as incentive payments are no longer required to be made to an approved participant, the MDA shall notify the Department of Revenue and the sales tax revenue collected from the tourism project shall no longer be deposited into the Tourism Project Sales Tax Incentive Fund. Any amounts remaining in the fund that were collected from such project shall be transferred to the State General Fund.

SOURCES: Laws, 2007, ch. 574, § 2; Laws, 2013, ch. 558, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “Fifteen (15)” for “Ten (10)” in (1)(b)(ii); substituted “Department of Revenue” for “State Tax Commission” in the first sentence of (2).

§ 57-26-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required.

(1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-26-1 through 57-26-5 and shall promulgate

rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-26-1 through 57-26-5 must submit an application and an application fee in the amount of Five Thousand Dollars (\$5,000.00) to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms of such financing; (d) an independent study that identifies the number of out-of-state visitors anticipated to visit the project and the ratio of out-of-state visitors to in-state visitors; and (e) any other information required by the MDA. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section. If the executive director determines the proposed tourism project qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-26-1 through 57-26-5. No certificate designating an entity as an approved participant and authorizing the approved participant to participate in the incentive program shall be issued from and after July 1, 2014.

(3) The MDA shall cause a cost benefit analysis of the tourism project to be performed by a state institution of higher learning, the university research center or some other entity approved by the MDA.

SOURCES: Laws, 2007, ch. 574, § 3; Laws, 2011, ch. 479, § 2, eff from and after passage (approved Mar. 30, 2011.)

Amendment Notes — The 2011 amendment added the last sentence in (2).

§ 57-26-7. Prohibition against Mississippi Development Authority approving applications submitted after June 30, 2014, for certain projects.

The MDA shall not approve any application submitted after June 30, 2014, pursuant to Section 57-26-5 for a project that includes any resort development.

SOURCES: Laws, 2009, ch. 356, § 2, eff from and after passage (approved Mar. 17, 2009.)

Cross References — MDA prohibited from approving applications submitted after June 30, 2014, pursuant to this section, for projects that include any resort development, see § 57-26-7.

CHAPTER 28

Tourism Project Incentive Program; Entertainment Districts, etc.

SEC.

57-28-1.

Definitions.

57-28-5.

Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation.

SEC.

57-29-25.

Repealed.

§ 57-28-1. Definitions.

As used in Sections 57-28-1 through 57-28-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Approved project costs” means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project. The term “approved project costs” also may include, if approved by the Mississippi Development Authority, costs described above that are incurred by an approved participant within three (3) months after the date a tourism project opens for commercial operation. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third party verification of costs.

(b) “Approved participant” means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-28-5.

(c) “MDA” means the Mississippi Development Authority.

(d) “Tourism project” shall include an entertainment district described below and may include any of the following as may be approved by the MDA:

(i) A hotel with a minimum private investment of Forty Million Dollars (\$40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars (\$40,000,000.00);

(ii) A nationally branded, themed entertainment district consisting of restaurants, bars, amphitheaters, live theaters, other entertainment venues and commercial improvements that the MDA determines to be tourism related located within the entertainment district, with a minimum private investment of Seventy-five Million Dollars (\$75,000,000.00);

(iii) A nationally branded museum/aquarium with a minimum private investment of Forty Million Dollars (\$40,000,000.00); and

(iv) A public golf course with a minimum private investment of Ten Million Dollars (\$10,000,000.00).

In addition, in order for a tourism project to be eligible to qualify under the provisions of Sections 57-28-1 through 57-28-5, the tourism project must be located on a project site, and construction of the tourism project must begin no later than June 1, 2017.

(e) "Project site" means a planned mixed use development located on at least four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development, for which the initial phase of development shall begin no later than June 1, 2007.

(f) "State" means the State of Mississippi.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 4; Laws, 2009, ch. 464, § 3, eff from and after July 1, 2009.

Amendment Notes — The 2009 amendment substituted "June 1, 2017" for "sixty (60) months after the date that construction for the initial phase of development of the project site begins, or June 1, 2012, whichever date is earlier" at the end of the last paragraph of (d)(iv).

§ 57-28-3. Creation of Tourism Sales Tax Incentive Fund; incentive payments.

Editor's Note — Section 27-3-4 provides that the terms "Mississippi State Tax Commission," "State Tax Commission," "Tax Commission" and "commission" appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

§ 57-28-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation.

(1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-28-1 through 57-28-5 and shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-28-1 through 57-28-5 must submit an application to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms of such financing; and (d) any other information required by the MDA. An application must be submitted no later than June 1, 2017. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project. If the executive director determines the proposed tourism project qualifies as a tourism project, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-28-1 through 57-28-5.

(3) If a person, entity or other person submits an application to the MDA to participate in the incentive program authorized in Sections 57-28-1 through 57-28-5, a gaming license may not be issued by the state for any establishment located in the project site.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 6; Laws, 2009, ch. 464, § 4, eff from and after July 1, 2009.

Amendment Notes — The 2009 amendment substituted “June 1, 2017” for “sixty (60) months after the date that construction for the initial phase of development of a project site begins, or June 1, 2012, whichever date is earlier” in the third sentence of (2).

§ 57-29-25. Repealed.

Repealed by its own terms, effective July 1, 2010.
§ 57-29-25. [Laws, 2008, ch. 543, § 1, eff from and after passage (ap-
proved May 9, 2008.)]

Editor’s Note — Former § 57-29-25 created the Mississippi Tourism Advisory Board, prescribed its duties and provided for its membership.

CHAPTER 30

Family-Oriented Enterprises

§ 57-30-3. Creation of Sales Tax Incentive Fund; incentive payments.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” ‘State Tax Commission,’ ‘Tax Commission’ and ‘commission’ appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

CHAPTER 39

Energy and Transportation Planning

Article 1.	Energy Management Planning	57-39-1
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ARTICLE 1.

ENERGY MANAGEMENT PLANNING.

SEC.	
57-39-1.	Legislative purpose and directives.
57-39-9.	General powers and duties of division.
57-39-11.	Mississippi Energy Plan.
57-39-15 and 57-39-17.	Repealed

- 57-39-19. Development and implementation of state energy management plan for state-owned and operated facilities.
- 57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2016].
- 57-39-23 through 57-39-35. Repealed
- 57-39-39. Energy Development Fund.
- 57-39-41. Repealed.
- 57-39-45. Compilation, analysis and dissemination of data for the purpose of maximizing Mississippi's energy resources.

§ 57-39-1. Legislative purpose and directives.

(1) The purpose of this chapter is to coordinate all energy-related needs and activities in Mississippi with the objective of providing an efficient and economical energy system through a statewide plan. To that end, the Mississippi Development Authority is directed to evaluate this state's energy needs and availability.

(2) The powers, duties and responsibilities of the Board of Energy and Transportation with respect to the state's energy needs and activities are transferred to the Mississippi Development Authority, and wherever the word "board" appears in this chapter meaning the former Board of Energy and Transportation it shall mean the Mississippi Development Authority. Whenever the word "division" appears in this chapter, it shall mean the Mississippi Development Authority Energy and Natural Resources Division.

SOURCES: Laws, 1980, ch. 548, § 1; Laws, 1992, ch. 496, § 39; Laws, 2013, ch. 538, § 2, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment substituted "Mississippi Development Authority" for "Department of Economic and Community Development" in the second sentence of (1); and in (2), substituted "Mississippi Development Authority" for "Department of Economic and Community Development" twice, and added the last sentence.

§ 57-39-9. General powers and duties of division.

The powers and duties of the division shall include, but not be limited to, the following:

- (a) To promote Mississippi as a leader in energy development, job creation and research.
- (b) To contribute to economic development activities related to the energy production and manufacturing sectors.
- (c) To promote energy efficiency across state government and within the private sector and other sectors, so that the state can realize the monetary and environmental benefits of energy efficiency.
- (d) To prepare, when necessary, a Mississippi Energy Plan and a State Energy Management Plan as hereinafter set forth.

(e) To develop policies and long-term strategic plans for the State of Mississippi to accomplish the duties hereinafter set forth.

(f) To collect, maintain and provide analysis of data related to energy consumption, production and natural resources pertinent to the development of more energy opportunities within the state.

(g) To promote the development, manufacturing and use of renewable technologies, processes and products in the state.

(h) To serve as the State Energy Office for the State of Mississippi and fulfill requirements of the State Energy Office as mandated by the federal government or the Governor.

(i) To prepare implementation programs in accordance with the requirements of the plan.

(j) Upon request, to accept, receive and receipt for federal monies and other monies, either public or private, for and in behalf of this state. Upon request of any political subdivision of the state, to accept, receive and receipt for any designated purpose, federal monies and other monies, either public or private, for and in behalf of any such political subdivision.

(k) To confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this chapter, or relating to the sound development of energy utilization.

(l) To perform such acts, make, promulgate and amend such reasonable general or special rules, regulations and procedures as it shall deem necessary to carry out the provisions of this chapter and to perform its duties hereunder. No rules, regulations or procedures prescribed by the board shall be inconsistent with, or contrary to, any acts of the Congress of the United States or any regulations promulgated pursuant thereto, or to this chapter or any other statutes of the State of Mississippi.

(m) To enter into contracts, grants and cooperative agreements with any federal or state agency, department or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, provided the agreements do not have a financial cost in excess of the amounts appropriated for such purposes by the Legislature.

(n) As required by the federal government or as directed by the Governor of the State of Mississippi, to establish a state program to administer the State Petroleum Set-Aside Program and to provide assistance in obtaining adjustments specified in orders issued by the Federal Energy Office.

SOURCES: Laws, 1980, ch. 548, § 5; Laws, 1989, ch. 544, § 55; Laws, 1992, ch. 496, § 40; Laws, 2013, ch. 538, § 3, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

“SECTION 1. This act shall be known and may be cited as the ‘Mississippi Energy Sustainability and Development Act.’”

Amendment Notes — The 2013 amendment substituted “division” for “board” in the first paragraph; added (a) through (c), (e) through (h) and (n); deleted former (e), (f) and

(g), requiring the availing of cooperation etc., with United States agencies, furnishing cooperation, etc., to United States agencies, and availing of cooperation, etc., with other states, respectively; redesignated the remaining subsections accordingly; and inserted “and a State Energy Management Plan” in (d).

§ 57-39-11. Mississippi Energy Plan.

(1) The division shall be tasked with developing, implementing and refining over time the Mississippi Energy Plan. The Mississippi Energy Plan shall include, but not be limited to the following:

- (a) Efforts to promote Mississippi as a leader in energy development, job creation and research;
- (b) Plans to encourage the safe and responsible exploration and extraction of the state’s natural resources;
- (c) Plans to add value and sustain resources through advances in manufacturing, conversion, and processing related to energy consumption and generation;
- (d) Expanding energy capacity and realizing savings through energy efficiency;
- (e) Encourage investments in the energy infrastructure of transmission and distribution to maintain the state’s leadership in this area;
- (f) Plans to ensure the state competes in technology-based energy economic development, research and development, and commercialization;
- (g) Prepare a twenty-first century energy workforce;
- (h) Statewide forecasts of energy needs and deficiencies;
- (i) A program for directing the expenditure of local, state and federal energy funds in conformity with the statewide plan;
- (j) Statewide implementation program, including a schedule of improvement programs, an operations program, a financial plan, necessary policies and legislation for implementation of the energy plan; and
- (k) Financial impact statement.

SOURCES: Laws, 1980, ch. 548, § 6; Laws, 1992, ch. 496, § 41; Laws, 2013, ch. 538, § 4, eff from and after July 1, 2013.

Editor’s Note — Laws of 2013, ch. 538, § 1, provides:

“SECTION 1. This act shall be known and may be cited as the ‘Mississippi Energy Sustainability and Development Act.’”

Section 4 of Chapter 538, Laws of 2013, deleted subsections (2) through (4) but did not delete the subsection (1) designation preceding the first paragraph.

Amendment Notes — The 2013 amendment rewrote the section.

§§ 57-39-15 and 57-39-17. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 9 and 10, effective from and after July 1, 2013.

§ 57-39-15. [Laws, 1980, ch. 548, § 8, eff from and after passage (approved May 26, 1980).]

§ 57-39-17. [Laws, 1980, ch. 548, § 9, eff from and after passage (approved May 26, 1980).]

Editor's Note — Former § 57-39-15 provided for the submission of the Mississippi Energy Plan to the legislature.

Former § 57-39-17 related to additional programs and activities of the Board of Energy and Transportation.

§ 57-39-19. Development and implementation of state energy management plan for state-owned and operated facilities.

(1) To ensure that state-owned facilities be operated in an energy-efficient manner to reduce operating costs to the General Fund and demonstrate successful energy consumption reduction strategies to other sectors of the state economy, the division shall coordinate the development and implementation of a general energy management plan for state-owned and operated facilities in conjunction with the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management. The general energy management plan shall include, but not be limited to, the following elements:

- (a) Gathering of energy-related data from state agencies, state institutions of higher learning, and community and junior colleges in a form and manner as required by the division;
- (b) Benchmarking of energy consumption and costs;
- (c) Use of a central system to aggregate and track energy consumption data for all state-owned facilities;
- (d) Model buildings and facilities energy audit procedures;
- (e) Model energy consumption reduction techniques;
- (f) Uniform data analysis procedures;
- (g) Model employee energy education program procedures;
- (h) Model training program for agency and institution personnel and energy coordinators;
- (i) Model guidelines for buildings and facilities managers;
- (j) Program monitoring and evaluation procedures.

(2) The State Energy Management Plan shall also include a description of actions to reduce consumption of electricity and nonrenewable energy sources used for heating, cooling, ventilation, lighting and water heating. A designee of each of the following entities — the Board of Trustees of State Institutions of Higher Learning, the Community College Board, the Department of Education, and the Department of Finance and Administration shall assist in the preparation of the State Energy Management Plan and serve together on an advisory board; the director of the division shall serve as the head of this board and shall convene representatives of these institutions no fewer than once each year in order to review implementation of the State Energy Management Plan.

(3) The State Energy Management Plan shall be developed and implemented with input and assistance from the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management, and the two (2) state agencies shall work together and pledge to use pertinent

resources and programs in conjunction with one another to accomplish the goals described in this section.

(4) The Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management shall transmit to the division an updated state building inventory on an annual basis.

(5) All state agencies having buildings on the inventory of buildings submitted to the Department of Finance and Administration as well as all institutions of higher learning and community and junior colleges (hereafter referred to as “covered entities”), shall submit energy consumption in a form and manner prescribed by the division.

(6) Energy-related data may include, but shall not be limited to, the following:

- (a) Electrical consumption data;
- (b) Natural gas consumption; and
- (c) Fuel oil consumption.

Any covered entity that does not enter its energy data in the form and manner prescribed by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive any state, federal or other funds from the division. The Mississippi Development Authority, in coordination with the Bureau of Building, Grounds and Real Property Management, shall promulgate rules pertaining to this section.

(7) By September 1 of each year, the division shall provide to the Legislature and the Governor a report on the energy consumption of covered entities. This report shall include, but shall not be limited to, total energy consumption for the state, total costs related to the energy metrics being tracked, increases or decreases from year-to-year by the state and by each covered entity, and forecast models for the coming fiscal year. The Bureau of Building, Grounds and Real Property Management shall provide assistance in the development of this report, as needed. The division will also provide a list of covered entities that have not reported data in accordance with this section.

(8) By November 1, 2014, and each subsequent five-year interval, each covered entity must submit a detailed energy management plan to the division. The detailed energy management plan shall describe specific measures to be taken to reduce the agency’s energy consumption by energy unit measure over a five-year period. The plan shall also include a timetable to accomplish the agency’s reduction goals. If the detailed energy management plan meets the criteria developed by the division, the division shall approve the plan. If the detailed energy management plan fails to meet the criteria, the division shall disapprove the detailed energy management plan and notify the submitting agency in writing, including the reasons for disapproval. Covered entities that do not submit an energy management plan by the deadline or fail to remedy changes subsequently required by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive capital improvement funds from the Bureau of Building, Grounds

and Real Property Management or be eligible to receive any state, federal or other funds from the division until such time as the entity has an energy management plan approved by the division.

SOURCES: Laws, 1980, ch. 548, § 10; Laws, 2013, ch. 538, § 5, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

“SECTION 1. This act shall be known and may be cited as the ‘Mississippi Energy Sustainability and Development Act.’”

Amendment Notes — The 2013 amendment rewrote the section.

§ 57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2016].

(1) The board, in consultation with other appropriate professional groups and organizations, and others knowledgeable in the subject, shall review, amend and adopt, in accordance with Standard 90.1-2010 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, energy code standards for building construction, standards for computer-based energy management systems, standards for systems for cogeneration of heating, cooling and electricity, and standards for design to use passive solar energy concepts, in order to promote the efficient use of energy. For the purposes of this section, “building” shall mean any structure which includes provisions for a heating or cooling system, or both, or for a hot water system, except exempted buildings. Unless it is an exempted building, each of the following are examples of buildings, within the meaning of this section:

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant or other commercial establishment which provides service or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; and

(d) Any building owned by a state or political subdivision or instrumentality thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas and university buildings.

(2) Exempt buildings shall include:

(a) Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four-tenths (3.4) British thermal units per hour per square foot or one (1.0) watt per square foot of floor area for all purposes;

(b) Buildings and structures or portions thereof which are neither heated nor cooled by fuel;

(c) Any mobile home;

(d) Any privately owned, noncommercial building or structure whose construction, heating, cooling or lighting arrangement is not in conflict with federal law;

(e) Any building owned or leased, in whole or in part, by the United States Government.

(3) Beginning July 1, 2013, the design, direction, construction and alteration of any building for which the standards promulgated pursuant to subsection (1) of this section applies shall be accomplished so that the building or applicable portions thereof shall meet or conform to the standards. The board shall not have enforcement over this section. Local governing authorities shall adopt rules and regulations for the administration and enforcement of this section, and to adopt such penalties for violation of this section as they deem appropriate, except in regard to buildings owned by the state. In state-owned buildings, the building commission shall provide for the compliance with the standards adopted under this chapter. Local governing authorities are authorized to adopt rules and regulations as developed and promulgated by the commission for the administration and enforcement of these standards and to adopt such penalties for violations of the standards as they deem appropriate. Local governing authorities are authorized to establish an inspection fee for the inspection of thermal and lighting standards in an amount not to exceed One Hundred Fifty Dollars (\$150.00).

(4) This section shall stand repealed from and after July 1, 2016.

SOURCES: Laws, 1980, ch. 548, § 11; Laws, 2013, ch. 536, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in (1), substituted “review, amend and adopt, in accordance with Standard 90.1-2010 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, energy code standards for building construction” for “develop and promulgate in accordance with Title III of Public Law 94-163 and Title III of Public Law 94-385 of the Ninety-fourth Congress, thermal and lighting efficiency standards,” deleted the former second sentence which read: “The standards shall apply to all buildings as required by subsections (4) and (5) of this section”; deleted former (3) through (5); redesignated former (6) as (3), and therein, substituted “2013” for “1980” in the first sentence, added the second sentence, and substituted “One Hundred Fifty Dollars (\$150.00)” for “fifty dollars” in the last sentence; added (4); and made stylistic changes.

§§ 57-39-23 through 57-39-35. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 11 through 17, effective from and after July 1, 2013.

§ 57-39-23. [Laws, 1980, ch. 548, § 12, eff from and after passage (approved May 26, 1980).]

§ 57-39-25. [Laws, 1980, ch. 548, § 13, eff from and after passage (approved May 26, 1980).]

§ 57-39-27. [Laws, 1980, ch. 548, § 14, eff from and after passage (approved May 26, 1980).]

§ 57-39-29. [Laws, 1980, ch. 548, § 15, eff from and after passage (approved May 26, 1980).]

§ 57-39-31. [Laws, 1980, ch. 548, § 16, eff from and after passage (approved May 26, 1980).]

§ 57-39-33. [Laws, 1980, ch. 548, § 17, eff from and after passage (approved May 26, 1980).]

§ 57-39-35. [Laws, 1980, ch. 548, § 18, eff from and after passage (approved May 26, 1980).]

Editor's Note — Former § 57-39-23 provided limitations on disclosure of proprietary information.

Former § 57-39-25 provided penalties for failure to submit certain information or submission of false information.

Former § 57-39-27 required the board to prescribe policies as to energy efficiency and allocation of petroleum products.

Former § 57-39-29 designated the board as the State Office of Petroleum Allocation.

Former § 57-39-31 related to the administration of the state set-aside program by the board.

Former § 57-39-33 provided that the board had the sole authority to establish priorities among users and consumers of allocated products.

Former § 57-39-35 prohibited the establishment of priorities by local governments or suppliers without board approval.

§ 57-39-39. Energy Development Fund.

(1) There is hereby created in the State Treasury a fund to be known as the Energy Development Fund. Monies in such fund are reserved exclusively for:

(a) Promoting the development of Mississippi's energy resources.

(b) Developing projects under this section which will demonstrate a realistic promise of making a significant energy contribution to the State of Mississippi.

(c) Effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social improvements in the state.

(2) The division will administer the fund. The division will establish policy and guidelines for use of the fund not later than one hundred twenty (120) days after July 1, 2013.

(3) The division will submit to the Governor on or before December 31 of each year a comprehensive report on the operation of the fund.

SOURCES: Laws, 1983, ch. 440, § 1; Laws, 1988, ch. 518, § 62; Laws, 1992, ch. 496, § 42; Laws, 2013, ch. 538, § 6, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error at the beginning of (3) by substituting "The division" for "The department." The Joint Committee ratified this correction at its August 1, 2013, meeting.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment rewrote the section.

§ 57-39-41. Repealed.

Repealed by Laws of 2013, ch. 538, § 18, effective from and after July 1, 2013.

§ 57-39-41. [Laws, 1986, ch. 500, § 1; Laws, 1992, ch. 496, § 43, eff from and after July 1, 1992.]

Editor's Note — Former § 57-39-41 required the board to prepare a plan for establishing a central motor pool.

§ 57-39-45. Compilation, analysis and dissemination of data for the purpose of maximizing Mississippi's energy resources.

(1) The division shall be responsible for compiling on an ongoing basis data related to the energy resources, both natural and manmade, of the State of Mississippi. This information shall be compiled from trusted and verified sources for the purposes of aggregation for analysis and dissemination to partners and the public with the intent to maximize the energy resources of the state.

(2) **Biomass resources.** The division shall be responsible for maintaining a current database and map of biomass feedstocks found in the State of Mississippi. The division shall work with the Mississippi Forestry Commission, the Department of Agriculture, the institutions of higher learning, and other knowledgeable partners to produce and maintain accurate data on the renewable biomass resources of the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the biomass resources of the state.

(3) **Energy infrastructure.** The division shall be responsible for maintaining a current database and map of the infrastructure that transports energy fuels and products across the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the energy infrastructure of the state.

(4) **Energy production and reserves.** The division shall be responsible for maintaining information from all readily available resources on the energy production capacity in the state. The division shall maintain information on the energy reserves of the state.

(5) **Reports and publications.** The division shall produce reports, white papers, or articles for placement in targeted publications that include information to promote Mississippi as a leader in the energy sector.

SOURCES: Laws, 2013, ch. 538, § 8, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the beginning of (1) by inserting “on” preceding “an ongoing basis.” The Joint Committee ratified this correction at its August 1, 2013, meeting.

ARTICLE 3.

ENERGY MANAGEMENT LAW OF 1981.

SEC.

57-39-105 and 57-39-107. Repealed

57-39-111. Repealed.

57-39-112. Assisting school districts in reducing energy consumption.

57-39-113 and 57-39-115. Repealed

§§ 57-39-105 and 57-39-107. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 19 and 20, effective from and after July 1, 2013.

§ 57-39-105. [Laws, 1981, ch. 420, § 3; reenacted and amended, Laws, 1983, ch. 540, § 3; Laws, 1984, ch. 488, § 244; Laws, 1992, ch. 496, § 44; Laws, 1998, ch. 593, § 5, eff from and after July 1, 1998.]

§ 57-39-107. [Laws, 1981, ch. 420, § 4; reenacted, Laws, 1983, ch. 540, § 4; Laws, 1998, ch. 593, § 6, eff from and after July 1, 1998.]

Editor's Note — Former § 57-39-105 required the department of economic and community development to develop and implement a general energy management plan.

Former § 57-39-107 required the department of finance and administration to submit data regarding energy consumption.

§ 57-39-111. Repealed.

Repealed by Laws of 2013, ch. 538, § 21, effective from and after July 1, 2013.

§ 57-39-111. [Laws, 1981, ch. 420, § 6; reenacted and amended, Laws, 1983, ch. 540, § 6; Laws, 1984, ch. 488, § 245; Laws, 1998, ch. 593, § 8; Laws, 2010, ch. 514, § 1, eff from and after July 1, 2010.]

Editor's Note — Former § 57-39-111 required state agencies to submit energy management plans to the Mississippi Development Authority.

§ 57-39-112. Assisting school districts in reducing energy consumption.

The division shall provide technical assistance to the Mississippi Department of Education so that the department can assist local school districts in developing a detailed energy management plan for that public school district. The purposes of the plan shall be to assist the public school district in reducing consumption of energy in its buildings and facilities and to maintain or reduce that level of energy consumption, subject to any allowances for building and facilities modernization, remodeling or upgrading for educational purposes, and for increased or decreased enrollment.

SOURCES: Laws, 1983, ch. 540, § 7; Laws, 1998, ch. 593, § 9; Laws, 2013, ch. 538, § 7, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

“SECTION 1. This act shall be known and may be cited as the ‘Mississippi Energy Sustainability and Development Act.’”

Amendment Notes — The 2013 amendment substituted “provide technical assistance to the Mississippi Department of Education so that the department can assist local school districts” for “cooperate with all public school districts of the state which request its assistance and cooperation” in the first sentence; in the second sentence, deleted “reaching a goal of” preceding “reducing consumption,” and deleted “by energy unit measure in fiscal year 2003 by a minimum of fifteen percent (15%) as compared with fiscal year 2001” following “of energy in its buildings and facilities.”

§§ 57-39-113 and 57-39-115. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 22 and 23, effective from and after July 1, 2013.

§ 57-39-113. [Laws, 1981, ch. 420, § 7; reenacted and amended, Laws, 1983, ch. 540, § 8; Laws, 1998, ch. 593, § 10, eff from and after July 1, 1998.]

§ 57-39-115. [Laws, 1981, ch. 420, § 8; reenacted and amended, Laws, 1983, ch. 540, § 9; Laws, 1998, ch. 593, § 11, eff from and after July 1, 1998.]

Editor's Note — Former § 57-39-113 allowed smaller percentage reduction goals for qualifying agencies and institutions.

Former § 57-39-115 required the division to report annually on energy reduction programs.

ARTICLE 5.

SCHOOL ENERGY CONSERVATION PROGRAM.

SEC.

57-39-201 through 57-39-205. Repealed

§§ 57-39-201 through 57-39-205. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 24 through 26, effective from and after July 1, 2013.

§ 57-39-201. [Laws, 1984, ch. 463, § 1; Laws, 1992, ch. 496, § 45, eff from and after July 1, 1992.]

§ 57-39-203. [Laws, 1984, ch. 463, § 2; Laws, 1992, ch. 496, § 46; Laws, 2000, ch. 503, § 2, eff from and after July 1, 2000.]

§ 57-39-205. [Laws, 1984, ch. 463, § 3; Laws, 1992, ch. 496, § 47, eff from and after July 1, 1992.]

Editor's Note — Former § 57-39-201 authorized loans for school energy conservation programs.

Former § 57-39-203 related to the process for approval of loans and repayment.

Former § 57-39-205 allowed for the forfeiture of a homestead exemption in the case of a loan default.

CHAPTER 40

Energy Infrastructure Revolving Loan Program

- SEC.
- 57-40-1. Definitions.
- 57-40-3. Energy infrastructure revolving loan program established; purpose.
- 57-40-5. Energy Infrastructure Revolving Loan Fund created; application by county or incorporated municipality; repayment; audit of receipts and expenditures.
- 57-40-7. Powers and duties of Mississippi Development Authority in administering this chapter.

§ 57-40-1. Definitions.

As used in this chapter:

(a) "Project" means a facility constructed after July 1, 2012, with a capital investment from private sources of not less than Fifty Million Dollars (\$50,000,000.00).

(b) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 557, § 36; Laws, 2013, ch. 534, § 1, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

Amendment Notes — The 2013 amendment deleted the "(1)" designator at the beginning; in (a), substituted "July 1, 2012" for "April 17, 2009", "Fifty Million (\$50,000,000.00)" for "One Billion Dollars (\$1,000,000,000.00)," and deleted "that converts Mississippi feedstock to any form of energy that is produced for resale" following "July 1, 2012."

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-3. Energy infrastructure revolving loan program established; purpose.

There is established an energy infrastructure revolving loan program to be administered by the MDA for the purpose of assisting counties and municipalities in:

(a) Constructing, repairing or improving infrastructure related to a project, including, but not limited to, making a contribution in aid of construction to an energy-providing utility or cooperative for its constructing, repairing, improving and owning such infrastructure;

(b) Site preparation related to a project on property owned by a county or municipality; and

(c) Site preparation on property owned by the enterprise owning or operating a project.

SOURCES: Laws, 2009, ch. 557, § 37; Laws, 2013, ch. 534, § 2, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

Amendment Notes — The 2013 amendment added “including, but not limited to, making a contribution in aid of construction to an energy-providing utility or cooperative for its constructing, repairing, improving and owning such infrastructure” in (a).

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-5. Energy Infrastructure Revolving Loan Fund created; application by county or incorporated municipality; repayment; audit of receipts and expenditures.

(1) There is created a special fund in the State Treasury to be designated as the “Energy Infrastructure Revolving Loan Fund,” which shall consist of such money authorized to be deposited into such fund from any source. The fund shall be maintained in perpetuity for the purposes established in this chapter. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. Money in the fund may not be used or expended for any purpose except as authorized under this chapter.

(2) A county or an incorporated municipality may apply to the MDA for a loan under the energy infrastructure revolving loan program established under this chapter.

(3)(a) The MDA shall establish a loan program by which loans, at the rate of interest set by the MDA, may be made available to counties and incorporated municipalities for the purposes provided in Section 57-40-3.

(b) Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible costs as established by the MDA. The MDA may require county, municipal or private participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving loan fund. The MDA may establish a maximum amount for any loan. Loan repayments shall be deposited into the revolving loan fund.

(4) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other

periodic payments. The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(5) Prior to the execution of a loan agreement, relevant parties to the project shall enter into an agreement, in a manner acceptable to MDA, that stipulates the terms of the energy infrastructure investment and responsibilities among parties.

(6) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the entity is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA.

(7) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

SOURCES: Laws, 2009, ch. 557, § 38; Laws, 2013, ch. 534, § 3, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

Amendment Notes — The 2013 amendment rewrote (3)(a); substituted “municipal or private” for “or municipal” in (3)(b); added (5) and redesignated (5) and (6) as (6) and (7); substituted “entity is in arrears” for “county or municipality is in arrears” in (6); and made minor stylistic changes.

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-7. Powers and duties of Mississippi Development Authority in administering this chapter.

In administering the provisions of this chapter, the MDA shall have the following powers and duties:

(a) To supervise the use of all funds made available under this chapter for infrastructure improvements;

(b) To review and certify all projects for which funds are authorized to be made available under this chapter;

(c) To requisition money in the Energy Infrastructure Revolving Loan Fund and distribute that money on a project-by-project basis in accordance with the provisions of this chapter;

(d) To maintain an accurate record of all energy infrastructure revolving loan program funds made available to counties and municipalities and the costs for each project; and

(e) To adopt and promulgate such rules and regulations as may be necessary or desirable for the purpose of implementing the provisions of this chapter.

SOURCES: Laws, 2009, ch. 557, § 39; Laws, 2013, ch. 534, § 4, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

Amendment Notes — The 2013 amendment deleted “local governments” preceding “infrastructure improvements” in (a).

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

CHAPTER 43

Railroad Revitalization

SEC.

- 57-43-1. Establishment of Railroad Revitalization Fund; development of comprehensive state rail plan; plan to include distinct freight and passenger components; periodic update of plan; deposits and expenditures.
- 57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account.

§ 57-43-1. Establishment of Railroad Revitalization Fund; development of comprehensive state rail plan; plan to include distinct freight and passenger components; periodic update of plan; deposits and expenditures.

(1) There is established in the State Treasury a revolving fund to be designated as the “Railroad Revitalization Fund.” Monies (including interest earnings) in this fund shall be expended either separately or in combination with any available federal funds for railroad research, railroad planning and railroad administration costs incurred by the Mississippi Department of Transportation directly attributable to railroad revitalization projects; assistance to railroads for the rehabilitation or improvement of rail lines; and construction, improvement or rehabilitation of railroad facilities.

(2) The Mississippi Department of Transportation, in consultation with the Mississippi Development Authority, the Southern High-Speed Rail Commission as created in Section 57-45-1 and the railroads operating in the State of Mississippi, shall develop the State Rail Plan, which shall be a comprehensive plan that coordinates all aspects of the rail infrastructure within the state and includes distinct freight and passenger components, and is described as follows:

(a) The passenger component of the State Rail Plan means that part of the plan developed by the Mississippi Department of Transportation, in consultation with the Mississippi Development Authority and the Southern High-Speed Rail Commission and with the railroads operating in the state and in concert with the freight component of the State Rail Plan, that promotes passenger rail travel within the state in a manner that is compatible with opportunities for the state to obtain federal funding assistance that may be available for intercity passenger rail service and/or high-speed rail corridor service, and that contains provisions that include, but are not limited to, the following:

- (i) Articulating the ongoing comprehensive vision and objectives associated with promoting passenger rail travel within the state;
- (ii) Identifying all viable routes for passenger rail service;
- (iii) Enhancing the existing passenger rail segments within the state and constructing additional segments; and
- (iv) Providing recommendations to the providers of passenger rail service within the state for complying with federal requirements necessary for the state to qualify for any available federal funding.

(b) The freight component of the State Rail Plan means the plan developed by the Mississippi Department of Transportation, in consultation with the Mississippi Development Authority and the railroads operating in the state and in concert with the passenger component of the State Rail Plan, that promotes freight rail service within the state, including, but not limited to, service to and from water ports in the state and the articulation of the ongoing comprehensive vision and objectives associated with promoting freight rail service within the state.

(3) During fiscal years 2009 and 2010, a total cumulative sum not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) of the “Railroad Revitalization Fund” shall be used specifically for the purpose of initially developing the State Rail Plan, as described in subsection (2) of this section. After the initial development of the State Rail Plan, the plan shall be updated periodically, not less than every five (5) years.

(4) Except as may be otherwise provided in Section 2 of Chapter 497, Laws of 2009, funds appropriated or otherwise provided by the Legislature for rail line assistance as described in subsections (1) through (3) of this section shall be deposited in the Railroad Revitalization Fund. Any monies received by the Mississippi Department of Transportation by agreements, grants, gifts or other means from individuals, companies or other business entities, municipalities, counties, local railroad authorities or regional railroad authorities or other governmental agencies for the purposes set forth in this chapter, except federal grants made under Section 5 of the Department of Transportation Act, as amended (49 USCS 1654), shall be credited to the Railroad Revitalization Fund. Any interest received from investment of monies in the fund shall be credited to the fund and shall not be deposited into the State General Fund. Use of this fund for the required periodic updates to the State Rail Plan and for railroad research, planning and administration costs incurred by the Missis-

Mississippi Department of Transportation that are directly attributable to railroad revitalization projects shall be paid from any available funds of the Mississippi Department of Transportation, including those derived from collections from the locomotive fuel tax for the previous year.

SOURCES: Laws, 1981, ch. 470, § 1, reenacted, Laws, 1984, ch. 419, § 1; Laws, 1991, ch. 357 § 1; Laws, 1992, ch. 496, § 48; Laws, 1993, ch. 355, § 1; Laws, 2009, ch. 497, § 5, eff from and after July 1, 2009.

Editor's Note — Laws of 2009, ch. 497, § 1 provides:

“SECTION 1. The Legislature finds and determines that:

“(a) There exists in the State of Mississippi a continuing need to construct, improve and invest in rail or railroad infrastructure within the state. A strong rail infrastructure promotes economic development and employment opportunities and promotes the public good and general welfare of the state.

“(b) The public purpose of the provisions of this act is to develop a coordinated program related to rail infrastructure for freight and passenger rail travel within the State of Mississippi, including, but not limited to, the construction of such additional rail lines or tracks as may be necessary or advisable, the maintenance and improvement of the existing rail infrastructure, and the prudent use of state funds to take advantage of any opportunities for federal funding assistance that may be available.

“(c) The issuance of bonds and the borrowing of money for the specific purposes set forth in this act serve the public interest and are vital to the public safety and welfare of the people of Mississippi, and to the economic development of the state.”

Amendment Notes — The 2009 amendment rewrote the section to require the Mississippi Department of Transportation to develop the state rail plan, to require that the plan include distinct passenger and freight components and to describe the plan.

§ 57-43-11. Agreements to jointly fund rehabilitation or improvement; loans to make up local share.

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

§ 57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account.

(1) There is established within the Railroad Revitalization Fund a new account to be entitled the Mississippi Highway-Railroad Grade Crossing Safety Account. The account shall be administered by the Mississippi Department of Transportation and shall consist of:

(a) Such monies as are transferred to it on July 1, 2001, from the Mississippi Grade Crossing Closure Account;

(b) Thirty-five percent (35%) of collections from the locomotive fuel tax imposed under Section 27-59-307 for the previous year; and

(c) Monies transferred to it from the Railroad Revitalization Fund, pursuant to the provisions of Section 2 of Chapter 497, Laws of 2009.

Unexpended amounts remaining in the account at the end of a fiscal year shall not lapse into the State General Fund; and any interest earned on amounts in the account shall be deposited to the credit of the account.

(2) The Mississippi Transportation Commission, after consulting with the railroads operating in Mississippi, shall promulgate rules to ensure equitable allocation of the funds described in subsection (1) of this section to projects throughout the state, and shall consider the proportionate number of main line track miles of each railroad and the number of public roadway/railroad grade crossings on each railroad's main line. Expenditure of monies from the Mississippi Highway-Railroad Grade Crossing Safety Account shall be limited to the following purposes:

- (a) Financial aid for closure of public roadway/railroad grade crossings;
- (b) Realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing;
- (c) Monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad;
- (d) Installation, maintenance or upgrade of highway-railroad grade crossing signals, at the discretion of the Mississippi Transportation Commission, based upon the Federal Railroad Administration ranking of all Mississippi highway-railroad grade crossings. Not less than ten percent (10%) of the monies necessary to defray the costs of such installations must be federal funds;
- (e) Separation of grades of highway/railroad crossings;
- (f) Improvement of any grade crossing including the necessary roadway approaches thereto of any railroad across a public road highway;
- (g) Construction, reconstruction, repair or replacement of the grade crossing surface structure; and
- (h) Installation of an automatic advance warning signal alerting a motorist that a grade crossing is ahead.

(3) The Mississippi Department of Transportation shall consider all requests from the state's diagnostic review of public roadway/railroad grade crossings and from individual railroads for expenditure of funds for the purposes described in subsection (2) of this section, and shall establish uniform criteria and guidelines relating to such crossings and the expenditure of funds.

SOURCES: Laws, 2001, ch. 367, § 2; Laws, 2007, ch. 572, § 1; Laws, 2009, ch. 497, § 6, eff from and after July 1, 2009.

Amendment Notes — The 2009 amendment, in (1), added (c), and made minor stylistic changes; and substituted "Mississippi Transportation Commission, after consulting with the railroads" for "Mississippi Department of Transportation, in cooperation with the railroads" in (2).

CHAPTER 45

Mississippi-Louisiana-Alabama Rapid Rail Transit Compact

SEC.

57-45-1.

Mississippi-Louisiana-Alabama Rapid Rail Transit Compact.

§ 57-45-1. Mississippi-Louisiana-Alabama Rapid Rail Transit Compact.

(a) The Governor, on behalf of this state, is hereby authorized to execute a compact in substantially the following form with the States of Louisiana and Alabama; and the Legislature hereby signifies in advance its approval and ratification of such compact, which compact is as follows:

MISSISSIPPI-LOUISIANA-ALABAMA RAPID RAIL TRANSIT COMPACT**ARTICLE I**

The purpose of this compact is to study the feasibility of rapid rail transit service between Mississippi and the States of Louisiana and Alabama and to establish a joint interstate commission to assist in this effort.

ARTICLE II

This compact shall become effective immediately as to the states ratifying it whenever the States of Louisiana, Mississippi and Alabama have ratified it, and Congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the Legislature of each of the member states.

ARTICLE III

The states which are parties to this compact (hereinafter referred to as "party states") do hereby establish and create a joint agency which shall be known as the Mississippi-Louisiana Rapid Rail Transit Commission (hereinafter referred to as the "commission"). The membership of such commission shall consist of: the Governor of each party state, one (1) representative each from the Mississippi Energy and Transportation Board, or its successor, and the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor, five (5) other citizens of each party state, to be appointed by the Governor thereof. The appointive members of the commission shall serve for terms of four (4) years each. Vacancies on the commission shall be filled by appointment by the Governor for the unexpired portion of the term. The members of the commission shall not be compensated for service on the commission, but each of the appointed members shall be entitled to actual and reasonable expenses incurred in attending meetings, or incurred otherwise in the performance of his duties as a member of the commission. The members of the commission shall hold regular quarterly meetings and such special meetings as its business may require. They shall choose annually a chairman and vice chairman from among

their members, and the chairmanship shall rotate each year among the party states in order of their acceptance of this compact. The commission shall adopt rules and regulations for the transaction of its business and a record shall be kept of all its business. It shall be the duty of the commission to study the feasibility of providing interstate rapid rail transit service between the party states. Toward this end, the commission shall have power to hold hearings; to conduct studies and surveys of all problems, benefits and other matters associated with such service, and to make reports thereon; to acquire, by gift, grant or otherwise, from local, state, federal or private sources such money or property as may be provided for the proper performance of their function, and to hold and dispose of same; to cooperate with other public or private groups, whether local, state, regional or national, having an interest in such service; to formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties and to carry out the purposes of this compact.

ARTICLE IV

Each party state agrees that its Legislature may, in its discretion, from time to time make available and pay over to the commission funds for the establishment and operation of the commission. The contribution of each party state shall be in equal amounts, if possible, but nothing in this article shall be construed as binding the Legislature of either state to make an appropriation of a set amount of funds at any particular time.

ARTICLE V

Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any party state, or to repeal or prevent legislation, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a party state.

ARTICLE VI

(1) This compact shall continue in force and remain binding upon each party state until the Legislature or Governor of each or either state takes action to withdraw therefrom. However, any such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other party state or states by the Secretary of State of the party state which takes such action.

(2) There is hereby granted to the Governor, to the members of the commission for Louisiana, and to the compact administrator all the powers provided for in the compact and in this section. All officers of the State of Mississippi are hereby authorized and directed to do all things falling within their respective jurisdictions which are necessary or incidental to carrying out the purpose of the compact.

(b) Pursuant to Article II of this compact, the Legislature of the State of Mississippi hereby assents to the State of Alabama becoming a party to such

compact, subject to ratification by the State of Alabama of the terms and provisions thereof.

(c) Pursuant to Article III of this compact, in the exercise of such other powers as may be appropriate to enable the commission to accomplish its functions and duties and to carry out the purposes of this compact, the name of the commission shall be changed to the Southern High-Speed Rail Commission, subject to ratification by the States of Alabama and Louisiana.

SOURCES: Laws, 1981, ch. 518, § 1; Laws, 1983, ch. 311; Laws, 2009, ch. 497, § 7, eff from and after July 1, 2009.

Editor's Note — Laws of 2009, ch. 497, § 1 provides:

"SECTION 1. The Legislature finds and determines that:

"(a) There exists in the State of Mississippi a continuing need to construct, improve and invest in rail or railroad infrastructure within the state. A strong rail infrastructure promotes economic development and employment opportunities and promotes the public good and general welfare of the state.

"(b) The public purpose of the provisions of this act is to develop a coordinated program related to rail infrastructure for freight and passenger rail travel within the State of Mississippi, including, but not limited to, the construction of such additional rail lines or tracks as may be necessary or advisable, the maintenance and improvement of the existing rail infrastructure, and the prudent use of state funds to take advantage of any opportunities for federal funding assistance that may be available.

"(c) The issuance of bonds and the borrowing of money for the specific purposes set forth in this act serve the public interest and are vital to the public safety and welfare of the people of Mississippi, and to the economic development of the state."

Amendment Notes — The 2009 amendment, in (a), substituted "States of Louisiana and Alabama" for "state of Louisiana" in the introductory language, inserted "Alabama" in the name of the compact, substituted "between Mississippi and the States of Louisiana and Alabama" for "between the states of Mississippi and Louisiana" in Article I, and substituted "the States of Louisiana, Mississippi and Alabama" for "the states of Louisiana and Mississippi" in Article II; substituted "Article II of this compact" for "Article II of the Mississippi-Louisiana Rapid Rail Transit Compact" in (b); and added (c).

Cross References — Department of Transportation, in consultation with Southern High-Speed Rail Commission and Mississippi Development Authority, to promote passenger rail service and make recommendations regarding passenger rail infrastructure, see § 65-1-177.

CHAPTER 46

Mississippi Railroad Improvements Fund

SEC.

57-46-1.

Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

§ 57-46-1. Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

(1)(a) There is created a special fund in the State Treasury to be known as the Mississippi Railroad Improvements Fund which shall consist of monies

from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be disbursed by the Mississippi Development Authority (MDA) for the purposes authorized in subsection (2) of this section.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(2) The MDA shall establish a program to make grants from the Mississippi Railroad Improvements Fund to assist in paying a portion of the costs associated with the repair, rehabilitation, construction, reconstruction, upgrading and improvement of railroad lines and related facilities, including projects necessary to ensure safety and structural integrity of rail lines, rail beds and bridges.

(3)(a) An entity desiring a grant under this section shall submit an application to the MDA which shall include, at a minimum:

- (i) A description, including the cost, of the requested assistance;
- (ii) A description of the purpose for which the assistance is requested; and
- (iii) Any other information required by the MDA.

(b) The MDA shall have sole discretion in providing grants under this section. The terms of a grant shall be within the discretion of the MDA.

(4) The MDA shall have all powers necessary to implement and administer the program established under this section, including the establishing of requirements for matching funds and criteria regarding the evaluation of applications for assistance. The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation and administration of this section.

SOURCES: Laws, 2011, ch. 480, § 44, eff from and after passage (approved Apr. 6, 2011.)

Cross References — Mississippi Administrative Procedures Law, see §§ 25-43-1.101 et seq.

CHAPTER 61

Mississippi Business Investment Act

SEC.	
57-61-26.	Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.
57-61-27.	Sale of bonds; issuance of temporary bonds; investment of bond proceeds; registration of bonds; payment of costs and expenses.
57-61-35.	Representation of seller by Attorney General; payment of administrative, legal, and other expenses.
57-61-36.	Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.

§ 57-61-5. Definitions.

ATTORNEY GENERAL OPINIONS

Whether a proposal constitutes a “project” for purposes of qualifying for a “fee-in-lieu” of ad valorem tax under Miss. Code Ann. § 27-31-104 is a factual determination which must be made by the Mississippi Development Authority. A

Project qualifying for fee-in-lieu is entitled to a single 10-year exemption based on the completion of the single qualifying project. Welch, February 2, 2007, A.G. Op. #07-00013, 2007 Miss. AG LEXIS 9.

§ 57-61-15. Allocation of bond proceeds; lien requirements; effect of failure to create predicted jobs; effect of failure to meet repayment obligations; assistance for firms currently operating elsewhere in state.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

§ 57-61-25. Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.

(1) The seller is authorized to borrow, on the credit of the state upon receipt of a resolution from the Mississippi Development Authority requesting the same, money not exceeding the aggregate sum of Three Hundred Forty-one Million Five Hundred Thousand Dollars (\$341,500,000.00), not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this chapter. The rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this chapter, general or limited obligation bonds of the state shall be issued from time to time to provide monies necessary to carry out the purposes of this chapter for such total amounts, in such form, in such denominations payable in such currencies (either domestic or foreign, or both) and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than thirty (30) years from date thereof.

(3) All bonds and notes issued under authority of this chapter shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this chapter may be general or limited obligations of the state, and the full faith and credit of the State of Mississippi as to general obligation bonds, or the revenues derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest, as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and secretary of the seller.

(7) The seller is authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this chapter and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable.

(8) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States government of interest on bonds or notes issued by the state is hereby waived.

(9) The proceeds of bonds issued under this chapter after April 9, 2002, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in administering a program or providing assistance related to a project, or both, for which funding is provided from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Development Authority. Reimbursement of reasonable actual and necessary costs for a program or project shall not exceed three percent (3%) of the proceeds of bonds issued for such program or project. Monies authorized for a particular program or project may not be used to reimburse administrative

costs for unrelated programs or projects. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 1986, ch. 419, § 13; Laws, 1987, ch. 302, § 4; Laws, 1988, ch. 569, § 4; Laws, 1989, ch. 523, § 7; Laws, 1990 Ex Sess, ch. 71, § 19; Laws, 1993, ch. 548, § 4; Laws, 1995, ch. 548, § 5; Laws, 1996, ch. 553, § 2; Laws, 1998, ch. 559, § 1; Laws, 2002, ch. 541, § 1; Laws, 2002 2nd Ex Sess, ch. 3, § 1; Laws, 2003, ch. 502, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 89; Laws, 2005, 3rd Ex Sess, ch. 1, § 35; Laws, 2007, ch. 517, § 1; Laws, 2008, ch. 506, § 8; Laws, 2010, ch. 533, § 27; Laws, 2011, ch. 480, § 7; Laws, 2013, ch. 569, § 32, eff from and after passage (approved April 25, 2013.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2010 amendment substituted "Three Hundred Twenty-three Million One Hundred Thousand Dollars (\$323,100,000.00)" for "Three Hundred Sixteen Million Dollars (\$316,000,000.00)" in the first sentence in (1).

The 2011 amendment substituted "Three Hundred Thirty-one Million Five Hundred Thousand Dollars (\$331,500.00)" for "Three Hundred Twenty-three Million One Hundred Thousand Dollars (\$323,100,000.00)" in the first sentence of (1); and made a minor stylist change.

The 2013 amendment substituted "Three Hundred Forty-one Million Five Hundred Thousand Dollars (\$341,500,000.00)" for "Three Hundred Thirty-one Million Five Hundred Thousand Dollars (\$331,500,000.00)" in the first sentence of (1).

§ 57-61-27. Sale of bonds; issuance of temporary bonds; investment of bond proceeds; registration of bonds; payment of costs and expenses.

(1) Whenever bonds are issued, they shall be sold by the seller at a competitive or negotiated sale, from time to time, in such manner and at such price as may be determined by the seller to be most advantageous.

(2) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the seller or may be combined for sale as one (1) series with other general obligation bonds of the State of Mississippi.

(3) Until permanent bonds can be prepared, the seller may in its discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the seller.

(4) Pending their application to the purposes authorized, bond proceeds held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Mississippi Business Investment Sinking Fund.

(5) The State Treasurer shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the state for

the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the seller.

(6) All costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this chapter may be paid from the proceeds of bonds and notes issued under this chapter.

(7) The seller may provide in the resolution authorizing the issuance of such bonds the employment of one or more persons or firms to assist in the sale of the bonds; to enter into contracts for banks or trust companies located either within or without the State of Mississippi to act as registrars, paying agents, transfer agents or otherwise, for rating of the bonds, and to purchase insurance.

SOURCES: Laws, 1986, ch. 419, § 14; Laws, 1991, ch. 397 § 1; Laws, 1992, ch. 548 § 6; Laws, 2010, ch. 533, § 28, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2010 amendment rewrote (1); and deleted (2), which read: "Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the seller in such manner and at such prices not less than par and accrued interest, as the seller shall direct" and redesignated the remaining subsections accordingly.

§ 57-61-35. Representation of seller by Attorney General; payment of administrative, legal, and other expenses.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

SOURCES: Laws, 1986, ch. 419, § 18; Laws, 2012, ch. 546, § 24, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning.

§ 57-61-36. Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.

(1) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants to

municipalities through a Development Infrastructure Grant Fund to complete infrastructure related to new or expanded industry.

(2) [Repealed]

(3) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize the money transferred from the Housing Development Revolving Loan Fund and not more than Fifty Million One Hundred Thousand Dollars (\$50,100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants or loans to municipalities through an equipment and public facilities grant and loan fund to aid in infrastructure-related improvements as determined by the Mississippi Development Authority, the purchase of equipment and in the purchase, construction or repair and renovation of public facilities. Any bonds previously issued for the Development Infrastructure Revolving Loan Program which have not been loaned or applied for are eligible to be administered as grants or loans. In making grants and loans under this section, the Mississippi Development Authority shall attempt to provide for an equitable distribution of such grants and loans among each of the congressional districts of this state in order to promote economic development across the entire state.

The requirements of Section 57-61-9 shall not apply to any grant made under this subsection. The Mississippi Development Authority may establish criteria and guidelines to govern grants made pursuant to this subsection.

(4) [Repealed]

(5)(a) The Mississippi Development Authority may establish a Capital Access Program and may contract with any financial institution to participate in the program upon such terms and conditions as the authority shall consider necessary and proper. The Mississippi Development Authority may establish loss reserve accounts at financial institutions that participate in the program and require payments by the financial institution and the borrower to such loss reserve accounts. All money in such loss reserve accounts is the property of the Mississippi Development Authority.

(b) Under the Capital Access Program a participating financial institution may make a loan to any borrower the Mississippi Development Authority determines to be qualified under rules and regulations adopted by the authority and be protected against losses from such loans as provided in the program. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit claims for the reimbursement for losses incurred as a result of default on loans by qualified borrowers.

(c) Under the Capital Access Program a participating financial institution may make a loan that is secured by the assignment of the proceeds of a contract between the borrower and a public entity if the Mississippi Development Authority determines the loan to be qualified under the rules and regulations adopted by the authority. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit an application to the authority requesting that a loan secured pursuant to this paragraph be funded under the Capital Access Program.

(d) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority may utilize not more than One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making payments to loan loss reserve accounts established at financial institutions that participate in the Capital Access Program established by the Mississippi Development Authority; however, any portion of the bond proceeds authorized to be utilized by this paragraph that are not utilized for making payments to loss reserve accounts may be utilized by the Mississippi Development Authority to advance funds to financial institutions that participate in the Capital Access Program pursuant to paragraph (c) of this subsection.

(6) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Hundred Thousand Dollars (\$200,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting Warren County, Mississippi, in the continuation and completion of the study for the proposed Kings Point Levee.

(7) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars (\$100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of developing a long-range plan for coordinating the resources of the state institutions of higher learning, the community and junior colleges, the Mississippi Development Authority and other state agencies in order to promote economic development in the state.

(8) Notwithstanding any other provision of this chapter to the contrary, the Mississippi Development Authority shall use not more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of providing assistance to municipalities that have received Community Development Block Grant funds for repair, renovation and other improvements to buildings for use as community centers. Assistance provided to a municipality under this subsection shall be used by the municipality to match such Community Development Block Grant funds. The maximum amount of assistance that may be provided to a municipality under this subsection shall not exceed Seventy-five Thousand Dollars (\$75,000.00) in the aggregate.

(9) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Million Dollars (\$2,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting in paying the costs of constructing a new spillway and related bridge and dam structures at Lake Mary in Wilkinson County, Mississippi, including construction of a temporary dam and diversion canal, removing existing structures, removing and stockpiling rip-rap, spillway construction, dam embankment construction, road access, constructing bridges and related structures, design and construction engineering and field testing.

(10) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars (\$100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting the City of Holly Springs, Mississippi, in providing water and sewer and other infrastructure services in the Marshall, Benton and Tippah Counties area.

SOURCES: Laws, 1993, ch. 548, § 5; Laws, 1994, ch. 560, § 1; Laws, 1994, ch. 556, § 17; Laws, 1995, ch. 548, § 6; Laws, 1998, ch. 559, § 3; Laws, 1999, ch. 419, § 1; Laws, 2000, ch. 584, § 2; Laws, 2001, ch. 456, § 1; Laws, 2002, ch. 418, § 1; Laws, 2002, ch. 541, § 3; Laws, 2003, ch. 502, § 3; Laws, 2004, ch. 384, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 90; Laws, 2005, 3rd Ex Sess, ch. 1, § 37; Laws, 2006, ch. 434, § 1; Laws, 2007, ch. 356, § 1; Laws, 2007, ch. 517, § 2; Laws, 2008, ch. 506, § 9; Laws, 2010, ch. 533, § 29; Laws, 2010 2nd Ex Sess, ch. 30, § 6 effective from and after passage (approved Sept. 3, 2010); Laws, 2011, ch. 480, § 8; Laws, 2013, ch. 569, § 33, eff from and after passage (approved April 25, 2013.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2010 amendment substituted "July 1, 2015" for " July 1, 2010" in the last sentence in (2); substituted "Thirty-two Million Five Hundred Thousand Dollars (\$32,500,000.00)" for "Twenty-seven Million Five Hundred Thousand Dollars (\$27,500,000.00)" in the first sentence of the first paragraph in (3); and added (9) and (10).

The second 2010 amendment (ch. 30, 2nd Ex Sess) , added the next to last sentence in (2) and rewrote the last sentence; and inserted "the money transferred from the Housing Development Revolving Loan Fund and" in the first sentence of (3).

The 2011 amendment repealed (2); substituted "Forty Million One Hundred Thousand Dollars (\$40,100,000.00)" for "Thirty-two Million Five Hundred Thousand Dollars (\$32,500,000.00)" in the first sentence of (3); and substituted "One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00)" for "Seven Hundred Fifty Thousand Dollars (\$750,000.00)" in the first sentence of (5)(d).

The 2013 amendment substituted "Fifty Million One Hundred Thousand Dollars (\$50,100,000.00)" for "Forty Million One Hundred Thousand Dollars (\$40,100,000.00)" in the first sentence of (3); and minor stylistic changes.

CHAPTER 62

Mississippi Advantage Jobs Act

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|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC. | |
| 57-62-3. | Legislative intent. |
| 57-62-5. | Definitions [Repealed effective July 1, 2019]. |
| 57-62-9. | Incentive payments; qualifications; extension of time for receipt of incentive payments and waiver of job maintenance and creation requirements under certain circumstances [Repealed effective July 1, 2019]. |
| 57-62-11. | Mississippi Advantage Jobs Incentive Payment Fund; creation; purpose; administration. |
| 57-62-13. | Qualified business or industry to file claim for incentive payment; qualifications and requirements for receiving incentive payments. |

57-62-15. Promulgation of rules and regulations.

§ 57-62-3. Legislative intent.

It is the intent of the Legislature that:

(a) The State of Mississippi provide appropriate incentives to support the establishment of quality business and industry that hold the promise of significant development of the economy of the State of Mississippi through the creation of quality jobs;

(b) The amount of incentives provided under this chapter in connection with a particular establishment shall be directly related to the jobs created as a result of the establishment locating in the State of Mississippi;

(c) The Mississippi Development Authority and the Department of Revenue shall implement the provisions of this chapter and exercise all powers as authorized in this chapter; however, the application of this chapter or the offering of any of its incentives as to any particular qualified business or industry shall be in the sole discretion of the Mississippi Development Authority. The exercise of powers conferred by this chapter shall be deemed and held to be the performance of essential public purposes; and

(d) Nothing in this chapter shall be construed to constitute a guarantee or assumption by the State of Mississippi of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Mississippi to be given, pledged or loaned to any individual, company, corporation or association. Also, nothing in this chapter gives any right to any qualified business or industry to the incentives contained herein unless said incentive is given by the Mississippi Development Authority pursuant to this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 25; Laws, 2010, ch. 533, § 31, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2010 amendment deleted the (b)(i) designation and (b)(ii), which read: “Not exceed the estimated net direct state benefits that will accrue to the state as a result of the establishment locating in the State of Mississippi”; and substituted “Department of Revenue” for “State Tax Commission” in (c).

§ 57-62-5. Definitions [Repealed effective July 1, 2019].

[For businesses or industries that received or applied for incentive payments prior to July 1, 2005, this section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Qualified business or industry” means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business;

(b) “New direct job” means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. “New direct job” shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment;

(c) “Full-time job” means a job of at least thirty-five (35) hours per week;

(d) “Estimated direct state benefits” means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry;

(e) “Estimated direct state costs” means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry;

(f) “Estimated net direct state benefits” means the estimated direct state benefits less the estimated direct state costs;

(g) “Net benefit rate” means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits;

(h) “Gross payroll” means wages for new direct jobs of the qualified business or industry; and

(i) “MDA” means the Mississippi Development Authority.

[For businesses or industries that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010, this

section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Qualified business or industry” means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than one hundred (100) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(ii) Is a manufacturing or distribution enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, invests not less than Twenty Million Dollars (\$20,000,000.00) in land, buildings and equipment, and creates not less than fifty (50) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than twenty (20) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(iii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than twenty-five (25) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in

accordance with Section 57-73-21), or which creates not less than ten (10) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21). An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business; or

(iv) Is a research and development or a technology intensive enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than ten (10) new direct jobs.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business.

(b) “New direct job” means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. “New direct job” shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment.

(c) “Full-time job” or “full-time employment” means a job of at least thirty-five (35) hours per week.

(d) “Estimated direct state benefits” means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry.

(e) “Estimated direct state costs” means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry.

(f) “Estimated net direct state benefits” means the estimated direct state benefits less the estimated direct state costs.

(g) “Net benefit rate” means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

(h) “Gross payroll” means wages for new direct jobs of the qualified business or industry.

(i) “MDA” means the Mississippi Development Authority.

[For businesses or industries that apply for incentive payments from and after July 1, 2010, this section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Qualified business or industry” means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs;

(ii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than twenty-five (25) new direct jobs; or

(iii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which is a manufacturer that:

1. Provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by

the Mississippi Department of Employment Security, whichever is the lesser;

2. Has a minimum of five thousand (5,000) existing employees as of the last day of the previous calendar year; and

3. MDA determines will create not less than three thousand (3,000) new direct jobs within forty-eight (48) months of the date the MDA determines that the applicant is qualified to receive incentive payments.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business.

(b) “New direct job” means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. “New direct job” shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment.

(c) “Full-time job” or “full-time employment” means a job of at least thirty-five (35) hours per week.

(d) “Gross payroll” means wages for new direct jobs of the qualified business or industry.

(e) “MDA” means the Mississippi Development Authority.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 26; Laws, 2003, ch. 422, § 1; Laws, 2004, ch. 572, § 52; Laws, 2005, 3rd Ex Sess, ch. 1, § 69; Laws, 2008, 1st Ex Sess, ch. 30, § 52; Laws, 2010, ch. 533, § 32; Laws, 2010, ch. 559, § 52; Laws, 2011, ch. 471, § 53; Laws, 2011, 1st Ex Sess, ch. 1, § 3; reenacted without change, Laws, 2012, ch. 515, § 52, eff from and after July 1, 2012.

Joint Legislative Committee Note — Section 52 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 32 of ch. 533, Laws of 2010, effective upon passage (approved April 16, 2010), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor’s Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

Amendment Notes — The first 2010 amendment (ch. 533) provided for three versions of the section; in the second version, substituted “that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010” for “that apply for incentive payments from and after July 1, 2005” in the bracketed applicability language; in the third version, amended the second version by rewriting (a)(ii), deleting former (d) through (g), and redesignating former (h) and (i) as (d) and (e).

The second 2010 amendment (ch. 559) reenacted the section without change.

The first 2011 amendment (ch. 471) reenacted the section without change.

The second 2011 amendment (1st Ex Sess, ch. 1), in the version of the section effective for businesses or industries that apply for incentive payments from and after July 1, 2010, added (a)(iii), and made minor stylistic changes.

The 2012 amendment reenacted the section without change.

§ 57-62-9. Incentive payments; qualifications; extension of time for receipt of incentive payments and waiver of job maintenance and creation requirements under certain circumstances [Repealed effective July 1, 2019].

[For businesses or industries that received or applied for incentive payments prior to July 1, 2005, this section shall read as follows:]

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Department of Employment Security, but not to exceed the amount of money previously paid into the fund by the employer. A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security,

whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry;

(b) Provide an average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most

recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for this requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must create and maintain a minimum of ten (10) full-time jobs in counties that have an average unemployment rate over the previous twelve-month period which is at least one hundred fifty percent (150%) of the most recently published state unemployment rate, as determined by the Mississippi Department of Employment Security or in Tier Three counties as determined under Section 57-73-21. In all other counties, the business or industry must create and maintain a minimum of twenty-five (25) full-time jobs. The criteria for this requirement shall be based on the designation of the county at the time of the application. The threshold established upon the application will remain constant for the duration of the project. The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5) The MDA shall determine if the applicant is qualified to receive incentive payments. If the applicant is determined to be qualified by the MDA, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a period not to exceed ten (10) years and to estimate the amount of gross payroll for the period. If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for the appropriate additional period and to estimate the amount of gross payroll for the additional period. In conducting such cost/benefit analysis, the MDA shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the cost to the state of the qualified business or industry, and such other criteria as deemed appropriate by the MDA, including the adequacy of retirement benefits that the business or industry provides to individuals it employs in new direct jobs in this state. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved

application and the estimated net direct state benefits. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

[For businesses or industries that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010, this section shall read as follows:]

(1)(a) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Department of Employment Security, but not to exceed:

(i) Ninety percent (90%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred seventy-five percent (175%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser;

(ii) Eighty percent (80%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) but less than one hundred seventy-five percent (175%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser; or

(iii) Seventy percent (70%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of less than one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the

minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4)(a) In order to qualify to receive such payments, the establishment applying shall be required to meet the definition of the term “qualified business or industry”;

(b) The criteria for the average annual salary requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5)(a) The MDA shall determine if the applicant is qualified to receive incentive payments.

(b) If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for the appropriate additional period and to estimate the amount of gross payroll for the additional period. In conducting such cost/benefit analysis, the MDA shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the cost to the state of the qualified business or industry, and such other criteria as deemed appropriate by the MDA, including the adequacy of retirement benefits that the business or industry provides to individuals it employs in new direct jobs in this state. In no event

shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application and the estimated net direct state benefits. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

[For businesses or industries that apply for incentive payments from and after July 1, 2010, this section shall read as follows:]

(1)(a) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to ninety percent (90%) of the amount of actual income tax withheld for employees with new direct jobs, but in no event more than four percent (4%) of the total annual salary paid for new direct jobs during such period, excluding benefits which are not subject to Mississippi income taxes.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(c) A qualified business or industry as defined in Section 57-62-5(a)(iii) may elect the date upon which the ten-year period will begin and may elect to begin receiving incentive payments as early as the second quarter after

that date. Incentive payments will be calculated on all jobs above the existing number of jobs as of the date the MDA determines that the applicant is qualified to receive incentive payments. In the event that the qualified business or industry falls below the number of existing jobs at the time of determination that the applicant is qualified to receive the incentive payment, the incentive payment shall cease until the qualified business or industry once again exceeds that number. If after forty-eight (48) months, the qualified business or industry has failed to create at least three thousand (3,000) new direct jobs, incentive payments shall cease and the qualified business or industry shall not be qualified to receive further incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4)(a) In order to qualify to receive such payments, the establishment applying shall be required to meet the definition of the term “qualified business or industry”;

(b) The criteria for the average annual salary requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) Except as otherwise provided for a qualified business or industry as defined in Section 57-62-5(a)(iii), the business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5)(a) The MDA shall determine if the applicant is qualified to receive incentive payments.

(b) If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct an analysis to estimate the amount of gross payroll for the appropriate additional period. Incentive payments, cumulatively, shall not exceed ninety percent (90%) of the amount of actual income tax withheld for employees with new direct jobs, but in no event more than four percent (4%) of the total annual salary paid for new direct jobs during the additional period, excluding benefits which are not subject to Mississippi income taxes. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application and the minimum job and salary requirements. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

SOURCES: Laws of 2000, 2nd Ex Sess, ch. 1, § 28; Laws, 2000, 3rd Ex Sess, ch. 1, § 16; Laws, 2004, ch. 572, § 53; Laws, 2005, 3rd Ex Sess, ch. 1, § 70; Laws, 2007, ch. 475, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 53; Laws, 2010, ch. 533, § 33; Laws, 2010, ch. 559, § 53; Laws, 2011, ch. 471, § 54; Laws, 2011 1st Ex Sess, ch. 1, § 4; reenacted without change, Laws, 2012, ch. 515, § 53, eff from and after July 1, 2012.

Joint Legislative Committee Note — Section 53 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 33 of ch. 533, Laws of 2010, effective upon passage (approved April 16, 2010), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The first 2010 amendment (ch. 533) provided for three versions of the section; in the first and second versions, in (1), substituted "this chapter" for "the Mississippi Advantage Jobs Act" two times, and "the Department of Revenue" for "the State Tax Commission," in (6), substituted "the Department of Revenue" for "the

State Tax Commission” four times, and in (7)(a) and (b), substituted “Commissioner of Revenue” for “Chairman of the State Tax Commission”; in the bracketed language preceding the second version, substituted “that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010” for “that apply for incentive payments from and after July 1, 2005”; and in the third version, rewrote (1), rewrote (5), substituted “the Department of Revenue” for “the State Tax Commission” four times in (6), and substituted “Commissioner of Revenue” for “Chairman of the State Tax Commission” in (7)(a) and (b).

The second 2010 amendment (ch. 559) reenacted the section without change.

The first 2011 amendment (ch. 471) reenacted the section without change.

The second 2011 amendment (1st Ex Sess, ch. 1), in the version of the section effective for businesses or industries that apply for incentive payments from and after July 1, 2010, added (1)(c); and added “Except as otherwise provided for a qualified business or industry as defined in Section 57-62-5(a)(iii)” at the beginning of (4)(c).

The 2012 amendment reenacted the section without change.

§ 57-62-11. Mississippi Advantage Jobs Incentive Payment Fund; creation; purpose; administration.

(1) There is created in the State Treasury a special fund to be known as the Mississippi Advantage Jobs Incentive Payment Fund, into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under this chapter.

(2) The Mississippi Advantage Jobs Incentive Payment Fund shall be administered by the Department of Revenue, and monies in the fund, less three percent (3%) to be retained by the Department of Revenue to pay the reasonable and necessary expenses of the Department of Revenue in administering its duties under this chapter, shall be expended pursuant to the approved application. Amounts in the fund at the end of any fiscal year that are not necessary to make future incentive payments shall be paid into the General Fund.

(3) The liability of the State of Mississippi to make the incentive payments authorized under this chapter shall be limited to the balance contained in the fund.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 29; Laws, 2010, ch. 533, § 34, eff from and after passage (approved Apr. 16, 2010.)

Editor’s Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2010 amendment thrice substituted “Department of Revenue” for “State Tax Commission” in (2).

§ 57-62-13. Qualified business or industry to file claim for incentive payment; qualifications and requirements for receiving incentive payments.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the Department of Revenue and shall specify the actual number of new direct jobs created and maintained by the business or industry for the calendar quarter and the gross payroll thereof. The Department of Revenue shall verify the actual number of new direct jobs created and maintained by the business or industry and compliance with the average annual wage requirements for such business or industry under this chapter. If the qualified business or industry files a claim for an incentive payment during an additional incentive period provided under Section 57-62-9(2), the Department of Revenue shall verify the actual number of new direct jobs created and maintained by the business or industry and compliance with the average annual wage requirements for such business or industry under this chapter. If the Department of Revenue is not able to provide such verification utilizing all available resources, the Department of Revenue may request such additional information from the business or industry as may be necessary.

(2)(a) Except as otherwise provided in this chapter, the business or industry must meet the salary and job requirements of this chapter for four (4) consecutive calendar quarters prior to payment of the first incentive payment. Except as otherwise provided in Section 57-62-9, if the business or industry does not maintain the salary or job requirements of this chapter at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of new direct jobs created and maintained by the business or industry equals or exceeds the requirements of this chapter for one (1) calendar quarter.

(b) If the business or industry is qualified to receive incentive payments for an additional period provided under Section 57-62-9(2), the business or industry must meet the wage and job requirements of Section 57-62-9(2), for four (4) consecutive calendar quarters prior to payment of the first incentive payment. If the business or industry does not maintain the wage or job requirements of Section 57-62-9(2), at any other time during the appropriate additional period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of new direct jobs created and maintained by the business or industry equals or exceeds the amounts specified in Section 57-62-9(2), for one (1) calendar quarter.

(3) An establishment that has qualified pursuant to this chapter may receive payments only in accordance with the provision under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on

the new gross payroll for new direct jobs anticipated from the expansion only, pursuant to this chapter.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of this chapter and all rules and regulations, the Department of Finance and Administration, upon requisition of the Department of Revenue, shall issue a warrant drawn on the Mississippi Advantage Jobs Incentive Payment Fund to the establishment in the amount of the incentive payment as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 30; Laws, 2000, 3rd Ex Sess, ch. 1, § 17; Laws, 2005, 3rd Ex Sess, ch. 1, § 71; Laws, 2007, ch. 475, § 2; Laws, 2010, ch. 533, § 35; Laws, 2011 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved September 7, 2011.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2010 amendment throughout (1) and in (4), substituted “Department of Revenue” for “State Tax Commission.”

The 2011 amendment (1st Ex Sess, ch.1) added “Except as otherwise provided in this chapter” at the beginning of (2)(a).

§ 57-62-15. Promulgation of rules and regulations.

The MDA and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 31; Laws, 2010, ch. 533, § 36, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2010 amendment substituted “Department of Revenue” for “State Tax Commission.”

CHAPTER 64

Regional Economic Development

Sec.

57-64-23.

Agreements under this chapter to be approved by certain officers; agreements to be filed.

§ 57-64-1. Short title.**ATTORNEY GENERAL OPINIONS**

Counties or municipalities which are members of a Regional Economic Development Alliance approved by the Mississippi Development Authority have the authority under the Regional Economic Development Act to use bond proceeds to reimburse private developers for the costs of acquiring and constructing improvements. Harris, Apr. 26, 2006, A.G. Op. 06-0012.

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under

the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular “form of governmental organization” to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-3. Declaration of public policy.**ATTORNEY GENERAL OPINIONS**

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic devel-

opment benefits, and whether a regional economic development alliance is necessary to provide a particular “form of governmental organization” to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-5. Purpose.**ATTORNEY GENERAL OPINIONS**

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic devel-

opment benefits, and whether a regional economic development alliance is necessary to provide a particular “form of governmental organization” to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-9. Certificate of public convenience and necessity.**ATTORNEY GENERAL OPINIONS**

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act,

Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic devel-

opment benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the

project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-13. Joint exercise of power and authority by local governments.

ATTORNEY GENERAL OPINIONS

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic devel-

opment benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-23. Agreements under this chapter to be approved by certain officers; agreements to be filed.

(1) In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer, unit or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its being in force, be submitted to the state officer, unit or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing action of the Attorney General pursuant to subsection (2) of this section.

(2) Every agreement made by a local government unit under this chapter shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General of this state who shall determine whether the agreement is in proper form and compatible with the laws of this state. The Attorney General shall approve any such agreement submitted to him hereunder unless he shall find that it does not meet the conditions set forth herein and elsewhere in the laws of this state and shall detail in writing addressed to the governing bodies of the units concerned the specific respects in which the proposed agreement fails to meet the requirements of law.

Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) Prior to its being in force, an agreement made pursuant to this chapter shall be filed with the chancery clerk of each of the counties wherein a participating local government unit is located and with the Secretary of State. The chancery clerk and the Secretary of State shall preserve such agreements as public records and index and docket the same separate and apart from all other records in his office.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 16; Laws, 2009, ch. 546, § 17, eff from and after passage (approved Apr. 15, 2009.)

Amendment Notes — The 2009 amendment deleted former (4), which read: “A copy of any agreement made pursuant to this chapter shall be filed with the State Auditor for audit purposes no later than sixty (60) days after the agreement shall be in force.”

CHAPTER 71

Mississippi Small Enterprise Development Finance Act

SEC.

- 57-71-13. Lending guidelines, rules and regulations; identifying eligible projects; requirement of job creation; purchases exempt from taxation.
- 57-71-33. State Attorney General to represent seller in issuing, selling and validating bonds or notes; seller authorized to use proceeds to pay administrative, legal and other expenses.

§ 57-71-13. Lending guidelines, rules and regulations; identifying eligible projects; requirement of job creation; purchases exempt from taxation.

The Mississippi Business Finance Corporation shall promulgate lending guidelines, rules and regulations as may be necessary to carry out the provisions of this act.

The Mississippi Business Finance Corporation may work closely with the planning and development districts in identifying eligible projects and making the program available in all areas of the state.

As part of the lending criteria, the Mississippi Business Finance Corporation must receive a commitment that the proposed project will create a minimum of ten (10) net new full-time equivalent jobs.

Notwithstanding the provisions of Section 27-65-101(1), Mississippi Code of 1972, and other applicable laws, all purchases required to establish any project and financed by proceeds from bonds issued under this act shall be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Sections 27-65-21 and 27-65-24(1)(b).

SOURCES: Laws, 1988, ch. 580, § 7; Laws, 1990 Ex Sess, ch. 71, § 20; Laws, 2010, ch. 449, § 9, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment substituted “Mississippi Business Finance Corporation” for “Certified Development Company of Mississippi, Inc.,” throughout; and added “and 27-65-24(1)(b) to the end of the last paragraph.

§ 57-71-33. State Attorney General to represent seller in issuing, selling and validating bonds or notes; seller authorized to use proceeds to pay administrative, legal and other expenses.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this act.

SOURCES: Laws, 1988, ch. 580, § 17; Laws, 2012, ch. 546, § 25, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning.

CHAPTER 73

Economic Development Reform Act

SEC.

- 57-73-21. Determination and designation of counties' unemployment rate and per capita income; job tax credit for corporations.
- 57-73-25. Tax credit for employer providing basic skills training or retraining programs [Repealed effective July 1, 2016].

§ 57-73-21. Determination and designation of counties' unemployment rate and per capita income; job tax credit for corporations.

[In cases involving business enterprises that received or applied for the job tax credit authorized by this section prior to January 1, 2005, this section shall read as follows:]

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment Security and the United States Department of Commerce, the State Tax Commission shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period,

with equal weight being given to each category, are designated Tier One areas. Counties designated by the Tax Commission qualify for the appropriate tax credit for jobs as provided in subsections (2), (3) and (4) of this section. The designation by the Tax Commission is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Tax Commission shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties that have been designated by the Tax Commission as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to One Thousand Dollars (\$1,000.00) annually

for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5) In addition to the credits authorized in subsections (2), (3) and (4), an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five

percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of thirty-five (35) jobs must be created to qualify for the additional credit. The State Tax Commission shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. As used in this subsection, the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the credits authorized in subsections (2), (3), (4) and (5), any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee.

(7) In lieu of the tax credits provided in subsections (2) through (6), any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the amounts provided in subsection (2), (3) or (4) for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(8) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (2), (3), (4), (5), (6) and (7) of this section. Except as otherwise provided, the Tax Commission shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(9)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subse-

quently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Chairman of the State Tax Commission may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(13) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1) (a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1) (a) and Section 57-54-9(b) for each net new full-time employee.

(14) As used in this section, the term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

[In cases involving business enterprises that apply for the job tax credit authorized by this section from and after January 1, 2005, this section shall read as follows:]

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment

Security and the United States Department of Commerce, the Department of Revenue shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Department of Revenue qualify for the appropriate tax credit for jobs as provided in this section. The designation by the Department of Revenue is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Department of Revenue shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises in counties designated by the Department of Revenue as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to ten percent (10%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises in counties that have been designated by the Department of Revenue as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to five percent (5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster

area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises in counties designated by the Department of Revenue as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to two and one-half percent (2.5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5)(a) In addition to the other credits authorized in this section, an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of twenty (20) jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit

awarded in this paragraph (a). As used in this paragraph (a), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(b) In addition to the other credits authorized in this section, an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi. A minimum of twenty (20) new jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (b). As used in this paragraph (b), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the other credits authorized in this section, any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee.

(7) In lieu of the other tax credits provided in this section, any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the percentage of payroll provided in subsection (2), (3) or (4) of this section for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the jobs. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(8)(a) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for increases in the annual payroll for net new full-time jobs created by business enterprises qualified under this section. The Department of Revenue shall adjust the credit allowed in the event of payroll fluctuations during the additional five (5) years of credit.

(b) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business

enterprises qualified under subsections (5) and (6) of this section. The Department of Revenue shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(9)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Department of Revenue shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carry-forward, the Commissioner of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(13) As used in this section:

(a) "Business enterprises" means entities primarily engaged in:

(i) Manufacturing, processing, warehousing, distribution, wholesaling and research and development, or

(ii) Permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise.

(b) “Telecommunications enterprises” means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term “telecommunications enterprises.”

(14) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

(15) A business enterprise that chooses to receive job training assistance pursuant to Section 57-1-451 shall not be eligible for the tax credits provided for in this section.

SOURCES: Laws, 1989, ch. 524, § 11; Laws, 1990, ch. 502, § 8; Laws, 1991, ch. 584, § 9; Laws, 1994, ch. 558, § 19; Laws, 1995, ch. 527, § 2; Laws, 2000, 2nd Ex Sess, ch. 1, § 40; Laws, 2005, ch. 497, § 7; Laws, 2005, 3rd Ex Sess, ch. 1, § 66; Laws, 2007, ch. 452, § 1; Laws, 2009, ch. 557, § 22; Laws, 2010, ch. 533, § 37; Laws, 2013, ch. 447, § 4; Laws, 2013, ch. 571, § 2, eff from and after January 1, 2013.

Joint Legislative Committee Note — Section 4 of ch. 447, Laws of 2013, effective from and after July 1, 2013 (approved March 25, 2013), amended this section. Section 2 of ch. 571, Laws of 2013, effective from and after January 1, 2013 (approved April 26, 2013), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 571, Laws of 2013, which contains language that specifically provides that it supersedes § 57-73-21 as amended by ch. 447, Laws of 2013.

Editor’s Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

Amendment Notes — The 2009 amendment in the both versions of the section, designated the former provisions of (9) as (9)(a), and added (9)(b).

The 2010 amendment in the first version, twice substituted “Mississippi Development Authority” for “Department of Economic Development” in (13); and in the second version, substituted “twenty (20) jobs” for “thirty-five (35) jobs” in the second sentence of (5), and “Mississippi Development Authority” for “State Tax Commission” in the third sentence of (5), and substituted “Mississippi Development Authority” for “Department of Economic Development” twice in (14).

The 2010 amendment, in the third sentence in (5) and twice in (14), substituted “Mississippi Development Authority” for “Department of Economic Development”; and in the second sentence in (5), substituted “twenty (20) jobs” for “thirty-five (35) jobs.”

The first 2013 amendment (ch. 447), in the second version of the section, substituted “Department of Revenue” for “Tax Commission” throughout the section; substituted “Commissioner of Revenue” for “Chairman of the State Tax Commission” throughout.

The second 2013 amendment (ch. 571), in the second version, added “(a)” at the beginning of (5) and added (5)(b); substituted “Department of Revenue” for “State Tax Commission” and “Commissioner of Revenue” for “Chairman of the State Tax Commission” throughout and made a minor stylistic change.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-73-23. Income tax credit for employer providing dependent care for employees.

Editor’s Note — Section 27-3-4 provides that the terms “‘Mississippi State Tax Commission,’ ‘State Tax Commission,’ ‘Tax Commission’ and ‘commission’ appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

§ 57-73-25. Tax credit for employer providing basic skills training or retraining programs [Repealed effective July 1, 2016].

(1) A fifty percent (50%) income tax credit shall be granted to any employer (as defined in subsection (4) of this section) sponsoring skills training. The fifty percent (50%) credit shall be granted to employers that participate in employer-sponsored training programs through any community/junior college in the district within which the employer is located or training approved by such community/junior college. The credit is applied to qualified training expenses, which are expenses related to instructors, instructional materials and equipment, and the construction and maintenance of facilities by such employer designated for training purposes which is attributable to training provided through such community/junior college or training approved by such community/junior college. The credits allowed under this section shall only be used by the actual employer qualifying for the credits. The credit shall not exceed fifty percent (50%) of the income tax liability in a tax year and may be carried forward for the five (5) successive years if the amount allowable as credit exceeds the income tax liability in a tax year; however, thereafter, if the amount allowable as a credit exceeds the tax liability, the amount of excess shall not be refundable or carried forward to any other taxable year. The credit authorized under this section shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) per employee during any one (1) year. Nothing in this section shall be interpreted in any manner as to prevent the continuing operation of state-supported university programs.

(2) Employer-sponsored training shall include an evaluation by the local community or junior college that serves the employer to ensure that the training provided is job related and conforms to the definition of “skills training” as hereinafter defined.

(3) Employers shall be certified as eligible for the tax credit by the local community or junior college that serves the employer and the Department of Revenue.

(4) For the purposes of this section:

(a) “Skills training” means any employer-sponsored training by an appropriate community/junior college or training approved by such community/junior college that enhances skills that improve job performance. If the employer provides preemployment training, the portion of the preemployment training that involves skills training shall be eligible for the credit.

(b) “Employer-sponsored training” means training provided by the appropriate community/junior college in the district within which the employer is located or training approved by such community/junior college.

(c) “Employer” means those permanent business enterprises as defined and set out in Section 57-73-21.

(5) The tax credits provided for in this section shall be in addition to all other tax credits heretofore granted by the laws of the state.

(6) A community/junior college may commit to provide employer-sponsored skills training programs for an employer for a multiple number of years, not to exceed five (5) years.

(7) The State Board for Community and Junior Colleges shall make a report to the Legislature by January 30 of each year summarizing the number of participants, the junior or community college through which the training was offered and the type training offered.

(8) This section shall stand repealed from and after July 1, 2016.

SOURCES: Laws, 1989, ch. 524, § 13; Laws, 1990, ch. 502, § 10; Laws, 1992, ch. 567, § 1; Laws, 1993, ch. 602, § 15; Laws, 1994, ch. 436, § 1; Laws, 1995, ch. 527, § 3; Laws, 2000, ch. 382, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 41; reenacted and amended, Laws, 2002, ch. 382, § 1; Laws, 2004, ch. 513, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 67; Laws, 2006, ch. 339, § 1; Laws, 2008, ch. 367, § 1; Laws, 2012, ch. 400, § 1, eff from and after June 30, 2012.

Amendment Notes — The 2012 amendment substituted “Department of Revenue” for “State Tax Commission” at the end of (3); and extended the repealer provision from “July 1, 2012” to “July 1, 2016” at the end of (8).

§ 57-73-27. Promulgation of rules and regulations by State Tax Commission.

CHAPTER 75

Mississippi Major Economic Impact Act

SEC.

57-75-5. Definitions [Repealed effective July 1, 2019].

57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

57-75-11. General powers and duties of authority.

57-75-15. Powers and duties of State Bond Commission.

- 57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.
- 57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

§ 57-75-5. Definitions [Repealed effective July 1, 2019].

Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) “Act” means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) “Authority” means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) “Bonds” means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) “Facility related to the project” means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.

(e) “Person” means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) “Project” means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars (\$300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an

initial capital investment of not less than One Hundred Fifty Million Dollars (\$150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall include any addition to or expansion of an existing enterprise if such addition or expansion has an initial capital investment of not less than Three Hundred Million Dollars (\$300,000,000.00) from private or United States government sources, or has an initial capital investment of not less than One Hundred Fifty Million Dollars (\$150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall also include any ancillary development or business resulting from the enterprise, of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the project area has been selected as the site for the ancillary development or business.

(ii)1. Any major capital project designed to improve, expand or otherwise enhance any active duty or reserve United States armed services bases and facilities or any major Mississippi National Guard training installations, their support areas or their military operations, upon designation by the authority that any such base was or is at risk to be recommended for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, or other applicable federal law; or any major development project determined by the authority to be necessary to acquire or improve base properties and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property in the event of closure or reduction of military operations at the installation.

2. Any major study or investigation related to such a facility, installation or base, upon a determination by the authority that the study or investigation is critical to the expansion, retention or reuse of the facility, installation or base.

3. Any project as defined in Section 57-3-5, any business or enterprise determined to be in the furtherance of the public purposes of this act as determined by the authority or any facility related to such project each of which shall be, directly or indirectly, related to any military base or other military-related facility no longer operated by the United States armed services or the Mississippi National Guard.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv)1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars (\$750,000,000.00) which will create at least three thousand (3,000) jobs meeting criteria established by the Mississippi Development Authority.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the state has been selected as the site for the ancillary development or business.

(v) Any manufacturing, processing or industrial project determined by the authority, in its sole discretion, to contribute uniquely and significantly to the economic growth and development of the state, and which meets the following criteria:

1. The project shall create at least two thousand (2,000) net new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law.

2. The project and any facility related to the project shall include a total investment from private sources of not less than Sixty Million Dollars (\$60,000,000.00), or from any combination of sources of not less than Eighty Million Dollars (\$80,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project related to the establishment, improvement, expansion and/or other enhancement of any active duty military installation and having a minimum capital investment from any source or combination of sources other than the State of Mississippi of at least Forty Million Dollars (\$40,000,000.00), and which will create at least four hundred (400) military installation related full-time jobs, which jobs may be military jobs, civilian jobs or a combination of military and civilian jobs.

The authority shall require that binding commitments be entered into requiring that the minimum requirements for the project provided for in this subparagraph shall be met not later than July 1, 2008.

(viii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars (\$10,000,000.00) which will create at least eighty (80) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(ix) Any regional retail shopping mall with an initial capital investment from private sources in excess of One Hundred Fifty Million Dollars (\$150,000,000.00), with a square footage in excess of eight hundred thousand (800,000) square feet, which will create at least seven hundred (700) full-time jobs with an average hourly wage of Eleven Dollars (\$11.00) per hour. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(x) Any major capital project with an initial capital investment from any source or combination of sources of not less than Seventy-five Million Dollars (\$75,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the greater. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xi) Any potential major capital project that the authority has determined is feasible to recruit.

(xii) Any project built according to the specifications and federal provisions set forth by the National Aeronautics and Space Administration Center Operations Directorate at Stennis Space Center for the purpose of consolidating common services from National Aeronautics and Space Administration centers in human resources, procurement, financial management and information technology located on land owned or controlled by the National Aeronautics and Space Administration, which will create at least four hundred seventy (470) full-time jobs.

(xiii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars (\$10,000,000.00) which will create at least two hundred fifty (250) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xiv) Any major pharmaceutical facility with a capital investment of not less than Fifty Million Dollars (\$50,000,000.00) made after July 1, 2002, through four (4) years after the initial date of any loan or grant made by the authority for such project, which will maintain at least seven hundred fifty (750) full-time employees. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xv) Any pharmaceutical manufacturing, packaging and distribution facility with an initial capital investment from any local or federal sources of not less than Five Hundred Thousand Dollars (\$500,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvi) Any major industrial wood processing facility with an initial capital investment of not less than One Hundred Million Dollars (\$100,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty

Thousand Dollars (\$30,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvii) Any technical, engineering, manufacturing-logistic service provider with an initial capital investment of not less than One Million Dollars (\$1,000,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xviii) Any major capital project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Six Hundred Million Dollars (\$600,000,000.00) which will create at least four hundred fifty (450) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Seventy Thousand Dollars (\$70,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xix) Any major coal and/or petroleum coke gasification project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Eight Hundred Million Dollars (\$800,000,000.00), which will create at least two hundred (200) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars (\$45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and
2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xx) Any planned mixed use development located on not less than four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development with a capital

investment from private sources of not less than Four Hundred Seventy-five Million Dollars (\$475,000,000.00) in the aggregate in any one (1) or any combination of tourism projects that will create at least three thousand five hundred (3,500) jobs in the aggregate. For the purposes of this paragraph (f)(xx), the term “tourism project” means and has the same definition as that term has in Section 57-28-1. In order to meet the minimum capital investment required under this paragraph (f)(xx), at least Two Hundred Thirty-seven Million Five Hundred Thousand Dollars (\$237,500,000.00) of such investment must be made not later than June 1, 2015, and the remainder of the minimum capital investment must be made not later than June 1, 2017. In order to meet the minimum number of jobs required to be created under this paragraph (f)(xx), at least one thousand seven hundred fifty (1,750) of such jobs must be created not later than June 1, 2015, and the remainder of the jobs must be created not later than June 1, 2017. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxi) Any enterprise owning or operating an automotive manufacturing and assembly plant and its affiliates for which construction begins after March 2, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Five Hundred Million Dollars (\$500,000,000.00) which will create at least one thousand five hundred (1,500) jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxii) Any enterprise owning or operating a major powertrain component manufacturing and assembly plant for which construction begins after May 11, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Three Hundred Million Dollars (\$300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at

least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars (\$450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law.

(xxiv) Any enterprise owning or operating an existing tire manufacturing plant which adds to such plant capital assets of not less than Twenty-five Million Dollars (\$25,000,000.00) after January 1, 2009, and that maintains at least one thousand two hundred (1,200) full-time jobs in this state at one (1) location with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars (\$45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxv) Any enterprise owning or operating a facility for the manufacture of composite components for the aerospace industry which will have an investment from private sources of not less than One Hundred Seventy-five Million Dollars (\$175,000,000.00) by not later than December 31, 2015, and which will result in the full-time employment at the project site of not less than two hundred seventy-five (275) persons by December 31, 2011, and not less than four hundred twenty-five (425) persons by December 31, 2013, and not less than eight hundred (800) persons by December 31, 2017, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvi) Any enterprise owning or operating a facility for the manufacture of pipe which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than Three Hundred Million Dollars (\$300,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-two Thousand Dollars (\$32,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvii) Any enterprise owning or operating a facility for the manufacture of solar panels which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than One Hundred Thirty-two Million Dollars (\$132,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-four Thousand Dollars (\$34,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxviii) 1. Any enterprise owning or operating an automotive parts manufacturing plant and its affiliates for which construction begins after June 1, 2013, and not later than June 30, 2014, with an initial capital investment of not less than Three Hundred Million Dollars (\$300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average

annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

- a. The minimum requirements for the project provided for in this subparagraph shall be met; and
- b. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

2. It is anticipated that the project defined in this subparagraph (xxviii) will expand in three (3) additional phases, will create an additional five hundred (500) full-time jobs meeting the above criteria in each phase, and will invest an additional Three Hundred Million Dollars (\$300,000,000.00) per phase.

(g)(i) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; however, for the project defined in paragraph (f)(iv) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate. The provisions of this subparagraph (i) shall not apply to a project as defined in paragraph (f)(xxi) of this section.

(ii) For the purposes of a project as defined in paragraph (f) (xxi) of this section, the term "project area" means the acreage authorized in the certificate of convenience and necessity issued by the Mississippi Development Authority to a regional economic development alliance under Section 57-64-1 et seq.

(h) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five

Thousand Dollars (\$25,000.00) annually. A fee-in-lieu may be negotiated with an enterprise operating an existing project defined in paragraph (f)(iv)1 of this section; however, a fee-in-lieu shall not be negotiated for other existing enterprises that fall within the definition of the term “project.”

(k) “Affiliate” means a subsidiary or related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxi) or paragraph (f)(xxviii) of this section. The subsidiary or related business must provide services directly related to the core activities of the project.

(l) “Tier One supplier” means a supplier of a project as defined in paragraph (f)(xxi) of this section that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

SOURCES: Laws, 1989, ch. 534, § 3; Laws, 1991, ch. 584, § 3; Laws, 1993, ch. 305, § 1; Laws, 1993, ch. 570, § 1; Laws, 1994, ch. 420, § 1; Laws, 1995, ch. 576, § 1; Laws, 1996, ch. 508, § 1; Laws, 1996, ch. 554, § 1; Laws, 1997, ch. 585, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 42; Laws, 2000, 3rd Ex Sess, ch. 1, § 6; Laws, 2002, ch. 541, § 6; Laws, 2002, 1st Ex Sess, ch. 2, § 1; Laws, 2003, ch. 3, § 2; Laws, 2003, ch. 326, § 2; Laws, 2003, ch. 513, § 2; Laws, 2004, ch. 507, § 1; Laws, 2004, ch. 572, § 54; Laws, 2004, 3rd Ex Sess., § 91; Laws, 2005, ch. 315, § 1; Laws, 2006, ch. 538, § 7; Laws, 2006, 1st Ex Sess, ch. 2, § 1; Laws, 2007, ch. 303, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 54; Laws, 2008, 1st Ex Sess, ch. 45, § 1; Laws, 2009, ch. 302, § 1; Laws, 2009, ch. 303, § 1; Laws, 2009, ch. 464, § 1; Laws, 2010, ch. 301, § 1; Laws, 2010, ch. 405, § 1; reenacted without change, Laws, 2010, ch. 559, § 54; reenacted without change, Laws, 2011, ch. 471, § 55; reenacted without change, Laws, 2012, ch. 515, § 54; Laws, 2013, 1st Ex Sess, ch. 1, § 1, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 1 of ch. 464 Laws of 2009, effective from and after July 1, 2009 (approved March 30, 2009), amended this section. Section 1 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009) and Section 1 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 464, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 54 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 1 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010) and Section 1 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), also amended this section. As set out above, this section reflects the language of all three amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor’s Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

Amendment Notes — The first 2009 amendment (ch. 302) added (f)(xxiii) and (f)(xxiv).

The second 2009 amendment (ch. 303) added (f)(xxv).

The third 2009 amendment (ch. 464), in (f)(xx), rewrote the third and fourth sentences to extend the period of time within which certain minimum capital investments must be made and within which the required number of jobs must be created.

The first 2010 amendment (ch. 301) added (f)(xxvi).

The second 2010 amendment (ch. 405) added (f)(xxvii).

The third 2010 amendment (ch. 559) reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

The 2013 amendment added (f)(xxviii); in (k), substituted “paragraph (f)(iv)1 of this section” for “Section 57-75-5(f)(iv)1” in the last sentence of (j); in (k), substituted “paragraph (f)(xxi) or paragraph (f)(xxviii) of this section” for “Section 57-75-5(f)(xxi)”;

and in (l), substituted “paragraph (f)(xxi) of this section” for “Section 57-75-5(f)(xxi).”

§ 57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

(1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to the project by the authority may be done only with the concurrence of the affected public agency.

(2)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3)(a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project

defined in Section 57-75-5(f)(xxiii) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii) or Section 57-75-5(f)(xxviii) shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

SOURCES: Laws, 1989, ch. 534, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 43; Laws, 2000, 3rd Ex Sess, ch. 1, § 7; Laws, 2007, ch. 303, § 2; Laws, 2007, 1st Ex Sess, ch. 1, § 2; Laws, 2008, 1st Ex Sess, ch. 45, § 2; Laws, 2010, ch. 301, § 2; Laws, 2010, ch. 405, § 2; Laws, 2013, 1st Ex Sess, ch. 1, § 2, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 2 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 2 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 75-75-9 as amended by Laws of 2010, ch. 301.

Amendment Notes — The first 2010 amendment ch. 301, added (4).

The second 2010 amendment ch. 405, inserted “or Section 57-75-5(f)(xxvii)” in the introductory paragraph in (4)(a).

The 2013 amendment inserted “or Section 57-75-5(f)(xxviii)” in (4)(a) and made minor stylistic changes.

§ 57-75-11. General powers and duties of authority.

The authority, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To maintain an office at a place or places within the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(e)(i) To acquire by purchase, lease, gift, or in other manner, including quick-take eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project. The provisions of this paragraph that allow the acquisition of property by quick-take eminent domain shall be repealed by operation of law on July 1, 1994; and

(ii) Notwithstanding any other provision of this paragraph (e), from and after November 6, 2000, to exercise the right of immediate possession pursuant to the provisions of Sections 11-27-81 through 11-27-89 for the purpose of acquiring land, property and/or rights-of-way in the county in which a project as defined in Section 57-75-5(f)(iv)1 is located, that are necessary for such project or any facility related to the project.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under this act shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this act.

(g) If the authority identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(h) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(i) From and after the date of notification to the authority by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or

mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by this act, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this act.

(i) Except as otherwise provided in subparagraph (iii) of this paragraph (i), in acquiring lands by condemnation, the authority shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals for the purposes of subparagraphs (i) and (ii) of this paragraph (i);

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this act; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this act as provided in paragraph (r) of this section; and

(iii) In acquiring lands by condemnation, including the exercise of immediate possession, for a project, as defined in Section 57-75-5(f)(iv)1, the authority may acquire minerals or royalties in minerals.

(j) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this act.

(k) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof.

(l) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including, but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility

related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o)(i) To lease, sell or convey any or all property acquired by the authority under the provisions of this act to the enterprise, its successors or assigns, and/or any entity for purposes in furtherance of economic development as determined by the authority, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the transferee to be no longer needed.

(ii) To lease, sell, transfer or convey on any terms agreed upon by the authority any or all real and personal property, improvements, leases, funds and contractual obligations of a project as defined in Section 57-75-5(f)(vi) and conveyed to the State of Mississippi by a Quitclaim Deed from the United States of America dated February 23, 1996, filed of record at pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office, Tishomingo County, Mississippi, to any governmental authority located within the geographic boundaries of the county wherein such project exists upon agreement of such governmental authority to undertake and assume from the State of Mississippi all obligations and responsibilities in connection with ownership and operation of the project. Property leased, sold, transferred or otherwise conveyed by the authority under this paragraph (o) shall be used only for economic development purposes.

(p) To enter into contracts with any person or public agency, including, but not limited to, contracts authorized by Section 57-75-17, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and

effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including, but not limited to, rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(s) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(t) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(u) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(v) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(w) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(x) To deposit into the "Yellow Creek Project Area Fund" created pursuant to Section 57-75-31:

(i) Any funds or aid received as authorized in this section for the project described in Section 57-75-5(f) (vi), and

(ii) Any funds received from the sale or lease of property from the project described in Section 57-75-5(f) (vi) pursuant to the powers exercised under this section.

(y) To manage and develop the project described in Section 57-75-5(f)(vi).

(z) To promulgate rules and regulations necessary to effectuate the purposes of this act.

(aa) To negotiate a fee-in-lieu with the owners of the project.

(bb) To enter into contractual agreements to warrant any site work for a project defined in Section 57-75-5(f)(iv)1; provided, however, that the aggregate amount of such warranties shall not exceed Fifteen Million Dollars (\$15,000,000.00).

(cc) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(iv)1 in an amount not to exceed Thirty-nine Million Dollars (\$39,000,000.00).

(dd)(i) To own surface water transmission lines constructed with the proceeds of bonds issued pursuant to this act and in connection therewith to purchase and provide water to any project defined in Section 57-75-5(f)(iv) and to certificated water providers; and

(ii) To lease such surface water transmission lines to a public agency or public utility to provide water to such project and to certificated water providers.

(ee) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(v) or, in connection with a facility related to such a project, for job training, recruiting and infrastructure.

(ff) To enter into negotiations with persons proposing projects defined in Section 57-75-5(f)(xi) and execute acquisition options and conduct planning, design and environmental impact studies with regard to such project.

(gg) To establish such guidelines, rules and regulations as the authority may deem necessary and appropriate from time to time in its sole discretion, to promote the purposes of this act.

(hh) In connection with projects defined in Section 57-75-5(f)(ii):

(i) To provide grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii) in amounts not to exceed the amount authorized in Section 57-75-15(3)(b);

(ii) To supervise the use of all such grant funds or loans; and

(iii) To requisition money in the Mississippi Major Economic Impact Authority Revolving Loan Fund in connection with such loans.

(ii) In connection with projects defined under Section 57-75-5(f)(xiv):

(i) To provide grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv); however, the aggregate amount of any such loans under this paragraph (ii) shall not exceed Eighteen Million Dollars (\$18,000,000.00) and the aggregate amount of any such grants under this paragraph (ii) shall not exceed Six Million Dollars (\$6,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(jj) In connection with projects defined under Section 57-75-5(f)(xviii):

(i) To provide grant funds of Twenty-five Million Dollars (\$25,000,000.00) to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) to be used for real estate improvements and which may be disbursed as determined by the authority;

(ii) To provide loans to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) or make payments to a lender providing financing to the enterprise; subject to the following provisions:

1. Not more than Ten Million Dollars (\$10,000,000.00) may be loaned to such an enterprise for the purpose of defraying costs incurred by the enterprise for site preparation and real property improvements during the construction of the project in excess of budgeted costs; however, the amount of any such loan shall not exceed fifty percent (50%) of such excess costs;

2. Not more than Sixty Million Dollars (\$60,000,000.00) may be loaned to such an enterprise or paid to a lender providing financing to the enterprise for purposes determined appropriate by the authority, and the enterprise shall be obligated to repay the amount of the loan or payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3) (p); however, no such loan or payment may be made before the beginning of the fifth year after issuance by the enterprise of debt in like amount the proceeds of which are to be used in connection with the project;

(iii) To supervise the use of all such loan funds;

(iv) Loans under this paragraph (jj) may be for any term determined appropriate by the authority provided that the payments on any loan must be in an amount sufficient to pay the state's debt service on bonds issued for the purpose of providing funds for such a loan; and

(v) The repayment obligation of the enterprise for any loan or payment authorized under this paragraph (jj) shall, in the discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(kk) In connection with projects defined in Section 57-75-5(f)(xxi) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies, Itawamba Community College, Northeast Mississippi Community College, and/or East Mississippi Community College, public or private nonprofits or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxi) for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(s);

(ii) To supervise the use of all such grant funds so reimbursed; and

(iii) To enter into contractual agreements to warrant site preparation and availability for a project defined in Section 57-75-5(f)(xxi).

(ll) In connection with a project related to a Tier One supplier:

(i) To provide grant funds to reimburse public agencies, public or private nonprofits and Tier One suppliers for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(t);

(ii) To supervise the use of all such grant funds so reimbursed.

(mm) In connection with projects defined in Section 57-75-5(f)(xxii) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxii) for site preparation, real estate improvements, utilities, fire protection, wastewater, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(u); and

(ii) To supervise the use of all such grant funds so reimbursed.

(nn) It is the policy of the authority and the authority is authorized to accommodate and support any enterprise owning or operating a project defined in Section 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii), 57-75-5(f)(xxvi), 57-75-5(f)(xxvii) or 57-75-5(f)(xxviii) or an enterprise developing or owning a project defined in Section 57-75-5(f)(xx), that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph.

(oo) To provide grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx) for reimbursement of costs incurred by such enterprise for infrastructure improvements in the initial phase of development of the project, upon dedication of such improvements to the appropriate public agency.

(pp) In connection with projects defined in Section 57-75-5(f)(xxiii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project as defined in Section 57-75-5(f)(xxiii) for site preparation, utilities, real estate improvements, infrastructure, roads, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(v); and

(ii) To supervise the use of all such grant funds so reimbursed.

(qq)(i) To provide grant funds for the expansion of a publicly owned building for the project defined in Section 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xxiv) for the purchase and/or relocation of equipment, or for any other purpose related to the project as approved by the authority; however, the aggregate amount of any such loans under this paragraph (qq) shall not exceed Six Million Dollars (\$6,000,000.00) and the aggregate amount of any such grants under this paragraph (qq) shall not exceed Seven Million Dollars (\$7,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed ten (10) years as may be determined by the authority, shall bear a rate of interest to be determined by the authority, and shall be secured in an amount and a manner as may be determined by the authority.

(rr)(i) To provide grant funds to an enterprise owning or operating a project defined in Section 57-75-5(f) (xxv) for reimbursement of costs incurred by the enterprise in reconfiguring the manufacturing plant and for the purchase of equipment, or for any other purpose related to the project as approved by the authority;

(ii) To supervise the use of all such grant funds.

(ss) In connection with projects defined under Section 57-75-5(f)(xxvi):

(i) To provide grant funds and/or loans to a public agency in an amount not to exceed Fifteen Million Dollars (\$15,000,000.00) for the construction of a publicly owned building to be leased by the enterprise owning or operating the project;

(ii) To provide loan guarantees in an amount not to exceed the total cost of the project for which financing is sought or Twenty Million Dollars (\$20,000,000.00), whichever is less, for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to the enterprise owning or operating the project;

(iii) In connection with any loan guarantee made pursuant to this paragraph, to make payments to lenders providing financing to the enterprise owning or operating the project and the enterprise shall be obligated to repay the amount of the payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(y);

(iv) To supervise the use of all such grant funds, loan funds or payments; and

(v) To require the enterprise owning or operating the project to provide security for the repayment obligation for any loan guarantee authorized under this paragraph in an amount and in a manner as may be determined by the authority.

(tt) In connection with projects defined under Section 57-75-5(f)(xxvii):

(i) To provide loans to a public agency in an amount not to exceed Fifty Million Dollars (\$50,000,000.00) for the construction of a publicly owned building and acquisition of equipment to be leased by the enterprise owning or operating the project; and

(ii) To supervise the use of all such loan funds.

(uu) In connection with projects defined under Section 57-75-5(f)(xxviii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project for site preparation, utilities, real estate purchase and improvements, infrastructure, roads, rail improvements, public works, job training and any other expenses approved by the authority in

amounts not to exceed the amount authorized in Section 57-75-15(3)(aa); and

(ii) To supervise the use of all such grant funds so reimbursed.

(vv)(i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application for assistance regarding a project under this chapter include, at a minimum:

1. A two-year business plan (which shall include pro forma balance sheets, income statements and monthly cash flow statements);

2. Financial statements or tax returns for the three (3) years immediately prior to the application (if the project is a new company or enterprise, personal financial statements or tax returns will be required);

3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the authority shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (vv) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

SOURCES: Laws, 1989, ch. 534, § 6; Laws, 1993, ch. 305, § 2; Laws, 1996, ch. 554 § 2; Laws, 2003, ch. 326, § 3; Laws, 2003, ch. 441, § 1; Laws, 2003, ch. 513, § 3; Laws, 2004, 3rd Ex Sess., ch. 1, § 92; Laws, 2005, ch. 315, § 2; Laws, 2005, 4th Ex Sess, ch. 1, § 1; Laws, 2005, 5th Ex Sess, ch. 1, § 1; Laws, 2006, 1st Ex Sess, ch. 2, § 2; Laws, 2007, ch. 303, § 3; Laws, 2007, 1st Ex Sess, ch. 1, § 3; Laws, 2008, 1st Ex Sess, ch. 45, § 3; Laws, 2009, ch. 302, § 2; Laws, 2009, ch. 303, § 2; Laws, 2010, ch. 301, § 3; Laws, 2010, ch. 405, § 3; Laws, 2012, ch. 438, § 1; Laws, 2013, 1st Ex Sess, ch. 1, § 3, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 2 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009), amended this section. Section 2 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 303, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment

with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 3 of ch. 405 Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 3 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 3 of ch. 405, Laws of 2010, which contains language that specifically provides that it superseded § 57-75-11 as amended by Laws of 2010, ch. 301.

Amendment Notes — The first 2009 amendment (ch. 302) added (qq) and redesignated former (qq) as present (rr); and substituted “this paragraph (rr)” for “this paragraph (qq)” in (rr)(iv).

The second 2009 amendment (ch. 303) added (rr) and redesignated former (rr) as present (ss); and substituted “this paragraph (ss)” for “this paragraph (rr)” in (ss)(iv).

The first 2010 amendment (ch. 301), in (nn), inserted “57-75-5(f)(xxvi)” and made a related change; made a spelling correction in (qq); and added (ss), redesignating former (ss) as (tt), and therein updating an internal reference.

The second 2010 amendment (ch. 405) inserted “or 57-75-5(f)(xxvii)” in (nn); and added (tt) and made related changes.

The 2012 amendment in (o)(i), inserted “and/or any entity for purposes in furtherance of economic development as determined by the authority” following “its successors or assigns” in the first sentence, and substituted “transferee” for “enterprise” preceding “to be no longer needed” at the end of the last sentence.

The 2013 amendment inserted “or 57-75-5(f)(xxviii)” in (nn); added (uu); redesignated former (uu) as (vv) and substituted “paragraph (vv)” for “paragraph (uu)(iv).”

§ 57-75-15. Powers and duties of State Bond Commission.

[Through June 30, 2014, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Sixty-three Million Dollars

(\$63,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars (\$5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars (\$5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars (\$5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars

(\$33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars (\$3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(l) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars (\$2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars (\$3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars (\$15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars (\$293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars (\$30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars (\$48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars (\$88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars (\$13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty Million Dollars (\$130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants for projects as authorized in Section 57-75-11(kk), (ll), (mm) and (uu), or, in connection with a facility related to such

a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss); and

(xxii) Providing grants and loans as authorized in Section 57-75-11(tt).

Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars (\$300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable

actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(d)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is

provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (e)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (e)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (f)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (f)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project. Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to

a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (g)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (g)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (g)(ii) shall satisfy any applicable federal tax law requirements.

(h)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (h)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (h)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (h)(ii) shall satisfy any applicable federal tax law requirements.

(i)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for

each project for which reimbursements are sought. Reimbursements under this paragraph (i)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (i)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (j)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (j)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (k)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (k)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(l)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (l)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (l)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (l)(ii) shall satisfy any applicable federal tax law requirements.

(m)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (m)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable

actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (m)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (m)(ii) shall satisfy any applicable federal tax law requirements.

(n)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (n)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (n)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (n)(ii) shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the

manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for

such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact

Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars (\$500,000.00) at any one time.

[From and after July 1, 2014, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State

Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars (\$67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Sixty-three Million Dollars (\$63,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars (\$351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars (\$38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars

(\$5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars (\$4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars (\$5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars (\$5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars (\$33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars (\$3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(l) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars (\$24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars (\$2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars (\$500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred

Thousand Dollars (\$3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars (\$96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2016.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars (\$15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars (\$23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars (\$293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars (\$30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars (\$48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars (\$88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars (\$13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars (\$25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars (\$35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars (\$50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty

Million Dollars (\$130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e) and (f) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants for projects as authorized in Section 57-75-11(kk), (ll), (mm) and (uu), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss); and

(xxii) Providing loans as authorized in Section 57-75-11(tt).

Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars (\$300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(d)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable

actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (e)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (e)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (f)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and

necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (f)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for each project. Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (g)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (g)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (g)(ii) shall satisfy any applicable federal tax law requirements.

(h)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (h)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from

the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (h)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (h)(ii) shall satisfy any applicable federal tax law requirements.

(i)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (i)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (i)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (j)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reim-

bursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (j)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (k)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (k)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(l)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (l)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the

Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (l)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (l)(ii) shall satisfy any applicable federal tax law requirements.

(m)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (m)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (m)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (m)(ii) shall satisfy any applicable federal tax law requirements.

(n)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (n)(i) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph

(n)(ii) shall not exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate. Reimbursements under this paragraph (n)(ii) shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds on sealed bids at public sale, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale,

and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or

commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of

interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in

accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars (\$500,000.00) at any one time.

SOURCES: Laws, 1989, ch. 534, § 8; Laws, 1990, ch. 570, § 13; Laws, 1991, ch. 584, § 4; Laws, 1993, ch. 305, § 3; Laws, 1993, ch. 570, § 2; Laws, 1994, ch. 420, § 2; Laws, 1995, ch. 576, § 2; Laws, 1996, ch. 508, § 2; Laws, 1996, ch. 554, § 5; Laws, 1997, ch. 585, § 2; Laws, 2000, ch. 584, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 45; Laws, 2000, 3rd Ex Sess, ch. 1, § 9; Laws, 2001, ch. 449, § 1; Laws, 2002, ch. 541, § 7; Laws, 2002, 1st Ex Sess, ch. 2, § 3; Laws, 2003, ch. 3, § 3; Laws, 2003, ch. 326, § 4; Laws, 2003, ch. 513, § 4; Laws, 2004, ch. 484, § 1; Laws, 2004, ch. 507, § 2; Laws, 2004, 3rd Ex Sess, ch. 1, § 93; Laws, 2005, ch. 315, § 3; Laws, 2005, ch. 521, § 3; Laws, 2005, 4th Ex Sess, ch. 1, § 2; Laws, 2005, 5th Ex Sess, ch. 1, § 2; Laws, 2006, ch. 538, § 8; Laws, 2006, 1st Ex Sess, ch. 2, § 3; Laws, 2007, ch. 303, § 4; Laws, 2007, 1st Ex Sess, ch. 1, § 4; Laws, 2008, 1st Ex Sess, ch. 45, § 4; Laws, 2009, ch. 302, § 3; Laws, 2009, ch. 303, § 3; Laws, 2009, ch. 464, § 2; Laws, 2010, ch. 301, § 4; Laws, 2010, ch. 405, § 4; Laws, 2011, ch. 431, § 1; Laws, 2013, ch. 567, § 1; Laws, 2013, ch. 569, § 34; Laws, 2013, 1st Ex Sess, ch. 1, § 4, eff from and after passage (approved April 28 2013.)

Joint Legislative Committee Note — Section 2 of ch. 464 Laws of 2009, effective from and after July 1, 2009 (approved March 30, 2009), amended this section. Section 3 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009), and Section 3 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 464, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 4 of ch. 405 Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 4 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 4 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 57-75-15 as amended by Laws of 2010, ch. 301.

Section 1 of ch. 567, Laws of 2013, effective from and after passage (approved April 25, 2013), amended this section. Section 34 of ch. 569, Laws of 2013, effective from and after passage (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the August 1, 2013, meeting of the Committee.

Amendment Notes — The first 2009 amendment (ch. 302) substituted “2011” for “2009” in (3)(n); substituted “2010” for “2009” in (3)(o); added (3)(w); in (4), added (a)(xix) and (j); and made minor stylistic changes.

The second 2009 amendment (ch. 303) added (3)(x); in (4), added (a)(xx) and (k); and made minor stylistic changes.

The third 2009 amendment (ch. 464), provided for two versions of the section; in both versions, substituted “June 30, 2015” for “June 30, 2010” at the end of (3)(r), substituted, “July 1, 2009” for “July 1, 2020” at the end of (3)(v), and in (7), rewrote the first paragraph, and deleted “and in one or more other newspapers or financial journals with a large national circulation, to be” following “City of Jackson” in the second paragraph.

The first 2010 amendment (ch. 301), in both versions of the section, substituted “June 30, 2012” for “June 30, 2010” in (3)(q), added (3)(y), added (4)(a)(xxi), and added (4)(l).

The second 2010 amendment (ch. 405), in both versions of the section, added (3)(z), added (4)(a)(xxii), and added (4)(m).

The 2011 amendment, in the version effective through June 30, 2014, substituted “June 30, 2011” for “June 30, 2016” at the end (3)(p); inserted “(g), (h), (i), (k), (l) and (m)” preceding “of this subsection (4)” near the end of (4)(a)(x); and inserted “If the bonds are to be sold on sealed bids at public sale” in the second paragraph of (7).

The first 2013 amendment (ch. 567), substituted “April 25, 2013” for “June 30, 2015” in (3)(r) and “April 25, 2013” for “July 1, 2016” in (3)(z) in both versions of the section.

The second 2013 amendment (ch. 569), in both versions, in (3)(b), substituted “Sixty-three Million Dollars (\$63,000,000.00)” for “Sixty-one Million Dollars (\$61,000,000.00)” in the first sentence and deleted the third sentence, which read: “If there are any monetary proceeds derived from the disposition of any improvements located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS and if there are any monetary proceeds derived from the disposition of any timber located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS, all of such proceeds (both from the disposition of improvements and the disposition of timber) commencing July 1, 1996, through June 30, 2010, shall be paid to the Board of Education of Kemper County, Mississippi, for expenditure by such board of education to benefit the public schools of Kemper County.”

The third 2013 amendment, (1st Ex Sess ch. 1) in both versions of the section added (3)(aa); in (4)(a)(xvii), inserted “and (uu)”; added (4)(n); and substituted “Chancery Court of the First Judicial District” for “First Judicial District of the Chancery Court” in (12).

§ 57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” ‘State Tax Commission,’ ‘Tax Commission’ and ‘commission’ appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

§ 57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.

The board of supervisors of a county or the governing authorities of a municipality may each enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)¹, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii) or Section 57-75-5(f)(xxviii), providing that the county or municipality will not levy any taxes, fees or assessments upon the enterprise other than taxes, fees or assessments that are generally levied upon all taxpayers and the board of supervisors or the governing authorities also may each enter into a fee-in-lieu agreement as provided in Section 27-31-104. Such agreements may be for a period not to exceed thirty (30) years.

SOURCES: Laws, 2000, 3rd Ex Sess, ch. 1, § 4; Laws, 2007, ch. 303, § 5; Laws, 2007, 1st Ex Sess, ch. 1, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2013 amendment inserted “or Section 57-75-5(f)(xxviii)” in the first sentence.

§ 57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

(1)(a)(i) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xviii) is authorized to assist in defraying the costs incurred or to be incurred by the enterprise establishing such project by:

1. Contributing a sum of up to Five Million Dollars (\$5,000,000.00) to such enterprise for use in connection with the construction of the project; and/or
2. Lending a sum of up to Five Million Dollars (\$5,000,000.00) upon such terms as the board of supervisors of such county and such enterprise may agree, the proceeds of which loan shall be used by such enterprise in connection with the construction or financing of the project.

(ii) In order to provide the amounts set forth in paragraph (a)(i) of this subsection (1), any such county may appropriate monies from the county’s general funds or provide such amounts from the proceeds of

general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(b) The board of supervisors of any county may donate real property for use in the location, construction and/or operation of a project as defined under Section 57-75-5(f)(xxiii) to one or more economic development authorities, economic development districts, industrial development authorities or similar public agencies created pursuant to state law that engage in economic or industrial development in the county, and any such public agencies may accept such donation of real property from the county. Such public agencies also may transfer and convey among themselves, with or without consideration being paid or received, real property to be used in the location, construction and/or operation of such a project, and may accept such transfers or donations.

(2) Any county or municipality in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) or 57-75-5(f)(xxvii) is authorized to:

(a) Acquire the site for such project and contribute the site to the enterprise owning or operating the project;

(b) Apply for grants and loans and utilize the proceeds of such grants and loans for infrastructure related to the project; and

(c) Enter into a lease agreement with the enterprise owning or operating the project for a term not to exceed ninety-nine (99) years.

(3)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxviii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(b) Any county in which there is to be located a project is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. The county may provide such assistance by contributing or lending any sum approved for such purpose by the board of supervisors of the county, upon such terms as the board of supervisors may agree, to the entity that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection, any such county may appropriate monies from the county's

general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(d) In any county in which there is to be located a project, the governing authorities of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations; and

(iii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds.

(e) In any county in which there is to be located a project, the person, entity or other agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the person, agency or other entity seeking to acquire the property, and at which the owner of the property is willing to sell the property.

(4) The powers and authority granted in this section are an additional, alternative and supplemental method for the doing of the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

SOURCES: Laws, 2005, ch. 315, § 8; Laws, 2010, ch. 301, § 5; Laws, 2010, ch. 405, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 6, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 5 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 5 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 5 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 57-75-37 as amended by Laws of 2010, ch. 301.

Amendment Notes — The first 2010 amendment (ch. 301) added present (3) and redesignated former (3) as (4).

The second 2010 amendment (ch. 405), in the introductory paragraph in (3), inserted “or municipality” and “or 57-75-5(f)(xxvii).”

The 2013 amendment inserted the “(i)” designator in the first paragraph, redesignated former (2) as (1)(b), added (3) and redesignated the remaining subdivisions accordingly and made minor stylistic changes throughout.

CHAPTER 77

Venture Capital Act of 1994

SEC.
57-77-39. Representation of seller by Attorney General with respect to issuing, selling and validating bonds or notes; payment of expenses relating to issuance of bonds or notes.

§ 57-77-39. Representation of seller by Attorney General with respect to issuing, selling and validating bonds or notes; payment of expenses relating to issuance of bonds or notes.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this chapter.

SOURCES: Laws, 1994, ch. 650, § 21; Laws, 2012, ch. 546, § 26, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning.

CHAPTER 80

Growth and Prosperity Act

SEC.
57-80-5. Definitions.
57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2019].
57-80-9. Exemption from local taxation; conditions.

§ 57-80-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) “Approved business enterprise” means any business enterprise seeking to locate or expand in a growth and prosperity county, which business enterprise is approved by the MDA.

(b) “Business enterprise” means any new or expanded (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of

agriculture; (ii) enterprises for research and development, including, but not limited to, scientific laboratories; or (iii) such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA and which creates a minimum of ten (10) jobs. “Business enterprise” does not include retail or gaming businesses or electrical generation facilities.

(c) “Eligible supervisors district” means:

(i) A supervisors district:

1. As such district exists on January 1, 2001, in which thirty percent (30%) or more of such district’s population as of June 30, 2000, is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of June 30, 2000, or the official 1990 census poverty rate data (the official 1990 census poverty rate data shall not be used to make any such determination after December 31, 2002); or

2. In which thirty percent (30%) or more of such district’s population is at or below the federal poverty level according to the latest official data compiled by the United States Census Bureau;

(ii) Which is contiguous to a county that meets the criteria of Section 57-80-7(1)(b); and

(iii) Which is located in a county which has been issued a certificate of public convenience and necessity under this chapter.

(d) “Growth and prosperity counties” means those counties which meet the requirements of this chapter and which have by resolution or order given its consent to participate in the Growth and Prosperity Program.

(e) “Local tax” means any county or municipal ad valorem tax imposed on the approved business enterprise pursuant to law, except the school portion of the tax and any portion of the tax imposed to pay the cost of providing fire and police protection.

(f) “Local taxing authority” means any county or municipality which by resolution or order has given its consent to participate in the Growth and Prosperity Program acting through its respective board of supervisors or the municipal governing board, council, commission or other legal authority.

(g) “MDA” means the Mississippi Development Authority.

(h) “State tax” means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities in a growth and prosperity county or supervisors districts, as the case may be;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be; and

(iv) Any sales and use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion, including, but not limited to, leases in existence prior to January 1, 2001, as certified by the MDA, in a growth and prosperity county, or supervisors district, as the case may be.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 36; Laws, 2001, ch. 582, § 1; Laws, 2004, ch. 469, § 1; Laws, 2010, ch. 392, § 1, eff from and after passage (approved Mar. 17, 2010.)

Amendment Notes — The 2010 amendment added the (c)(i)1. designation, and added (c)(i)2., and made minor stylistic changes.

§ 57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2019].

(1) From and after December 31, 2000, and until December 31, 2012, the following counties may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) Any county of this state which has an annualized unemployment rate that is at least two hundred percent (200%) of the state's unemployment rate as of December 31 of any year from 2000 through 2012, as determined by the Mississippi Department of Employment Security's most recently published data;

(b) Any county of this state in which thirty percent (30%) or more of the population of the county is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of August 30, 2000, for counties that apply before December 31, 2002, or the most recent official data compiled by the United States Census Bureau for counties that apply from and after December 31, 2002; or

(c) Any county of this state having an eligible supervisors district.

(2) The application, at a minimum, must contain (a) the Mississippi Department of Employment Security's most recently published figures that reflect the annualized unemployment rate of the applying county as of December 31 or the most recent official data by the United States Census Bureau required by subsection (1) of this section, as the case may be, and (b) an order or resolution of the county consenting to the designation of the county as a growth and prosperity county.

(3) Any municipality of a designated growth and prosperity county or within an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of subsection (1) (b) of this section may by order or resolution of the municipality consent to participation in the Growth and Prosperity Program.

(4) No incentive or tax exemption shall be given under this chapter without the consent of the affected county or municipality.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 37; Laws, 2001, ch. 582, § 2; Laws, 2004, ch. 572, § 55; Laws, 2006, ch. 499, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 55; Laws, 2009, ch. 399, § 1; reenacted without change, Laws, 2010, ch. 559, § 55; reenacted without change, Laws, 2011, ch. 471, § 56; reenacted without change, Laws, 2012, ch. 515, § 55, eff from and after July 1, 2012.

Editor’s Note — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

Amendment Notes — The 2009 amendment, in (1), substituted “December 31, 2012” for “December 31, 2010” in the introductory paragraph, and substituted “2000 through 2012” for “2000 through 2010” in (a).

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 57-80-9. Exemption from local taxation; conditions.

(1) Upon the issuance by the MDA of its certificate of public convenience and necessity, designating certain counties as growth and prosperity counties, any approved business enterprise in any such a growth and prosperity county or any approved business enterprise located within an eligible supervisors district within eight (8) miles of the boundary of the county that meets the criteria of Section 57-80-7(1)(b) shall be exempt from all local taxes levied by the county and all state taxes for a period of ten (10) years or until December 31, 2022, whichever occurs first, and upon consent of any municipality within such county or within such supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b), shall be exempt from all local taxes levied by such municipality for a period of ten (10) years or until December 31, 2022, whichever occurs first; however, if the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the duration of the exemption from state taxes for not more than two (2) years or until December 31, 2022, whichever occurs first. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(2) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions: (a) any exemption provided under this chapter is nontransferable and cannot be applied, used or assigned to any other person or business or tax account; (b) no approved business enterprise may claim or use the exemption granted under this chapter unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and (c) the approved business enterprise must enter into an agreement with the MDA

which sets out, at a minimum the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the approved business enterprise are not met.

(3) Upon entering into such an agreement, the MDA shall forward such agreement to the State Tax Commission and the affected local taxing authorities so that the exemption can be implemented. The State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of both local and state exemptions granted under this chapter.

(4) Any business enterprise that relocates its present operation and jobs to a growth and prosperity county or an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b) from another county in the state shall not receive any of the exemptions granted in this chapter.

(5) If the annualized unemployment rate in a growth and prosperity county falls below one hundred fifty percent (150%) of the state's annualized unemployment rate for three (3) consecutive calendar years and less than thirty percent (30%) of the population of the county is at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau as of December 31 of the third of such consecutive calendar years, the tax exemptions authorized under this chapter may not be granted to additional business enterprises.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 38; Laws, 2006, ch. 499, § 1; Laws, 2007, ch. 457, § 1; Laws, 2009, ch. 399, § 2, eff from and after passage (approved Mar. 18, 2009.)

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Amendment Notes — The 2009 amendment substituted “December 31, 2022” for “December 31, 2020” three times in (1); and in (5), inserted “and less than thirty percent (30%)...December 31 of the third of such consecutive calendar years,” and substituted “this chapter” for “Sections 57-62-5 through 57-62-15.”

CHAPTER 87

Mississippi Broadband Technology Development Act

SEC.

57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

§ 57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

Equipment used in the deployment of broadband technologies by a telecommunications enterprise (as defined in Section 57-73-21(13)), that is placed in service after June 30, 2003, and before July 1, 2020, shall be exempt from ad valorem taxation for a period of ten (10) years after the date such equipment is placed in service. For purposes of this section, “equipment used in the deployment of broadband technologies” means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

SOURCES: Laws, 2003, ch. 520, § 4; Laws, 2013, ch. 462, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “July 1, 2020” for “July 1, 2013” following “June 30, 2003, and before” in the first sentence.

CHAPTER 89

Mississippi Motion Picture Incentive Act

SEC.

57-89-3.

Definitions.

57-89-7.

Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

§ 57-89-3. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Base investment” means the actual investment made and expended in Mississippi by a motion picture production company in connection with the production of a state-certified production in the state. The term “base investment” includes amounts expended in Mississippi by a motion picture production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term “base investment” shall not include payroll.

(b) “Employee” means an individual directly involved in the physical production and/or post-production of a motion picture produced in the state and who is employed by a:

(i) Motion picture production company that is directly involved in the physical production and/or post-production of a motion picture in the state;

(ii) Personal service corporation retained by a motion picture production company to provide persons used directly in the physical production and/or post-production of a motion picture in the state; or

(iii) Payroll service or loan-out company that is retained by a motion picture production company to provide employees who work directly in the physical production and/or post-production of a motion picture in the state.

(c) “Motion picture” means a nationally distributed feature-length film, video, DVD, television program or series, commercial, or computer or video game made in Mississippi, in whole or in part, for theatrical or DVD release or television viewing or as a television pilot or viewing through streaming video or Internet delivery, or for playing on a video game console, personal computer or handheld device. The term “motion picture” shall not include the production of television coverage of news and athletic events, or a film, video, DVD, television program, series, or commercial that contains any material or performance defined in Section 97-29-103.

(d) “Motion picture production company” means a company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, commercials, or computer or video games intended for a theatrical release, for television viewing or for playing on a video game console, personal computer or handheld device. The term “motion picture production company” includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and post-production 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The term “motion picture production company” shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(e) “Payroll” means salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

(f) “Resident” or “resident of Mississippi” means a natural person, and for the purpose of determining eligibility for the rebate provided by Section 57-89-7, any person domiciled in the State of Mississippi and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six (6) months of each year within the state.

(g) “State” means the State of Mississippi.

(h) “State-certified production” means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

SOURCES: Laws, 2004, ch. 528, § 2; Laws, 2007, ch. 324, § 1; Laws, 2008, ch. 524, § 1; Laws, 2011, ch. 453, § 1; Laws, 2013, ch. 490, § 1, eff from and after passage (approved April 12, 2013.)

Amendment Notes — The 2011 amendment added the second sentence in (a); added “or viewing through streaming video or Internet delivery” to the end of the first sentence in (c); and added the second sentence in (d).

The 2013 amendment in (c), substituted “commercial, or computer or video game” for “or commercial” and added “or for playing on a video game console, personal computer or handheld device” in the first sentence; in (d), inserted “or computer or video games” and “or for playing on a video game console, personal computer or handheld device” and made related changes in the first sentence.

§ 57-89-7. Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

(1)(a) A motion picture production company that expends at least Fifty Thousand Dollars (\$50,000.00) in base investment or payroll, or both, in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the motion picture production company.

(b) In addition to the rebates authorized under paragraphs (a), (c) and (d) of this subsection, a motion picture production company may receive a rebate equal to twenty-five percent (25%) of payroll paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll.

(c) In addition to the rebates authorized under paragraphs (a), (b) and (d) of this subsection, a motion picture production company may receive a rebate equal to thirty percent (30%) of payroll paid for any employee who is a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll.

(d) In addition to the rebates authorized in paragraphs (a), (b) and (c) of this subsection, a motion picture production company may receive an additional rebate equal to five percent (5%) of the payroll paid for any employee who is an honorably discharged veteran of the United States Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars (\$20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall not approve any application for a rebate under subsection (1)(b) of this section after July 1, 2016.

(3) The Department of Revenue shall have all powers necessary to implement and administer the provisions of this section, and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SOURCES: Laws, 2004, ch. 528, § 4; Laws, 2007, ch. 324, § 2; Laws, 2008, ch. 524, § 2; Laws, 2011, ch. 453, § 2; Laws, 2013, ch. 490, § 2, eff from and after passage (approved April 12, 2013.)

Amendment Notes — The 2011 amendment substituted “Fifty Thousand Dollars (\$50,000.00)” for “Twenty Thousand Dollars (\$20, 000.00)” and “twenty-five percent (25%)” for “twenty percent (20%)” in (1)(a); substituted “twenty-five percent (25%)” for “twenty percent (20%)” in (1)(b); substituted “thirty percent (30%)” for “twenty-five percent (25%)” in (1)(c); substituted “Department of Revenue” for “State Tax Commission” throughout (2) and (3); and substituted “2014” for “2012” at the end of (2).

The 2013 amendment inserted “and (d)” in the first sentence of (b) and (c); substituted “Five Million Dollars (\$5,000,000.00)” for “One Million Dollars (\$1,000,000.00)” twice in (1)(b) and (c); added (1)(d) and redesignated remaining subdivisions accordingly; substituted “Ten Million Dollars (\$10,000,000.00)” for “Eight Million Dollars (\$8,000,000.00)” in (1)(f); substituted “July 1, 2016” for “July 1, 2014” at the end of (2); and made minor stylistic changes.

CHAPTER 91

Economic Redevelopment Act

SEC.	
57-91-5.	Definitions.
57-91-7.	Designation as redevelopment counties and municipalities.
57-91-9.	Redevelopment Project Incentive Fund created; incentive payments.

§ 57-91-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) “Business enterprise” means any permanent business enterprise locating or relocating within a redevelopment project area, including, without limitation:

(i) Industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;

(ii) Enterprises for research and development, including, but not limited to, scientific laboratories;

(iii) Industry for the retail sale of goods and services;

(iv) The industry for recreation and hospitality, including, but not limited to, restaurants, hotels and sports facilities; and

(v) Such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA.

The term “business enterprise” shall not include gaming businesses.

(b) “Contaminated site” means real property that is either (i) subject to a bankruptcy court order in which the property has been abandoned from the bankruptcy estate, or (ii) Brownfield property that is subject to a Brownfield agreement under Section 49-35-11, and the expansion, redevelopment or reuse of which is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(c) “County” means any county of this state.

(d) “Developer” means any person who assumes certain environmental liability at a contaminated site and enters into an agreement with a redevelopment county or municipality whereby the developer agrees to undertake a redevelopment project. “Developer agreement” means said agreement.

(e) “Governing body” means the board of supervisors of any county or the governing board of a municipality.

(f) “Law” means any act or statute, general, special or local, of this state.

(g) “MDA” means the Mississippi Development Authority.

(h) “MDEQ” means the Mississippi Department of Environmental Quality.

(i) “Municipality” means any incorporated municipality in the state.

(j) “Person” means a natural person, partnership, association, corporation, business trust or other business entity.

(k) “Redevelopment counties and municipalities” means those counties or municipalities which meet the requirements of this chapter and which have by resolution or order designated a redevelopment project area and given its consent to participate in the program established under this chapter.

(l) “Redevelopment project” means a project that combines remediation of a contaminated site with the planned development of such site and surrounding land in a manner conducive to use by the public or business enterprises including the construction of recreational facilities.

(m) “Redevelopment project area” means the geographic area defined by resolution of the county or municipality within which the remediation and

planned development will take place containing the contaminated site and additional surrounding and adjacent land and waterfront, not exceeding six hundred fifty (650) acres, suitable for development.

(n) “Resolution” means an order, resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) “State taxes and fees” means any sales tax imposed on the sales or certain purchases by a business enterprise pursuant to law within a redevelopment project area, all income tax imposed pursuant to law on income earned by the approved business enterprise within a redevelopment project area and all franchise tax imposed pursuant to law on the value of capital used, invested or employed by the approved business enterprise in a redevelopment project area.

SOURCES: Laws, 2005, ch. 468, § 3; Laws, 2013, ch. 486, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in (b), inserted “either (i)” and “or (ii) Brownfield property that is subject to a Brownfield agreement under Section 49-35-11.”

§ 57-91-7. Designation as redevelopment counties and municipalities.

(1) From and after January 1, 2005, any counties or municipalities meeting the following conditions may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) There is located within such county or municipality a contaminated site;

(b) There has been established by resolution of the county or municipality a redevelopment project area;

(c) There is submitted to the MDA application for designation as a redevelopment county or municipality which, at minimum, contains (i) MDEQ concurrence of the existence of a contaminated site and concurrence and involvement in the assessment and remediation plan, (ii) a resolution of the county or municipality setting forth the boundaries of the redevelopment project area and consenting to the designation of the county or municipality as a redevelopment county or municipality, and (iii) a developer agreement.

(2) If a proposed redevelopment project area falls wholly within the municipality, only the municipality must apply to the MDA for designation as a redevelopment municipality. If a proposed redevelopment project area falls wholly within the county and outside the boundaries of a municipality, only the county may apply to the MDA for designation as a redevelopment county. If a proposed redevelopment project area falls partly within and partly without a municipality, then both the county and municipality must apply for designation as a redevelopment county and municipality; however, the county and municipality may submit a single application to the MDA, but the governing bodies of both the county and the municipality must pass resolutions meeting the requirements of paragraph (c)(ii) of subsection (1) of this section.

SOURCES: Laws, 2005, ch. 468, § 4; Laws, 2013, ch. 486, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment deleted “and until December 31, 2009” following “From and after January 1, 2005,” in (1).

§ 57-91-9. Redevelopment Project Incentive Fund created; incentive payments.

(1) There is created in the State Treasury a special fund to be known as the “Redevelopment Project Incentive Fund,” into which shall be deposited certain state taxes and fees collected from business enterprises located within the redevelopment project area.

The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. Unexpended amounts remaining in the fund at the end of a fiscal year that are not necessary for incentive payments shall lapse into the General Fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program. The MDEQ may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for oversight costs of the assessment and remediation of the contaminated site.

(2)(a) Incentive payments may be made by the MDA to a developer in connection with a redevelopment project. Subject to the provisions of this subsection, the payments to a developer shall be for the amount of state taxes and fees collected from business enterprises located and operating within a redevelopment project area and deposited into the Redevelopment Project Incentive Fund. In the case of sales taxes, the amounts deposited in the Redevelopment Project Incentive Fund shall be reduced by the diversions required in Section 27-65-75. The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to a developer fifteen (15) years from the date that is two (2) years after the date on which the redevelopment project is approved by the MDA.

(b) Except as otherwise provided in this subsection, payments made to a developer under this section shall be in the following amounts:

(i) For the first six (6) years in which such payments are made, the developer shall receive one hundred percent (100%) of the funds deposited into the Redevelopment Project Incentive Fund;

(ii) For the seventh year in which such payments are made, the developer shall receive eighty percent (80%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iii) For the eighth year in which such payments are made, the developer shall receive seventy percent (70%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iv) For the ninth year in which such payments are made, the developer shall receive sixty percent (60%) of the funds deposited into the Redevelopment Project Incentive Fund; and

(v) For the tenth year and any subsequent year in which such payments are made, the developer shall receive fifty percent (50%) of the funds deposited into the Redevelopment Project Incentive Fund.

(c) In no event shall the total aggregate amount of incentive payments that may be made to a developer under this section exceed two and one-half (2-½) times the amount of the allowable cost of remediation of the contaminated site. The allowable cost of remediation of the contaminated site shall be jointly determined by the MDEQ and the MDA.

(d) Any monies in the Redevelopment Project Incentive Fund which are not used for the purpose of making incentive payments to a developer shall be deposited into the State General Fund. The developer shall not distribute the proceeds of any incentive payment to a business enterprise.

(3) At such time as payments are no longer required to be made to a developer, the MDA shall notify the Department of Revenue and the state taxes and fees collected from business enterprises located within the redevelopment project area shall no longer be deposited into the Redevelopment Project Incentive Fund.

SOURCES: Laws, 2005, ch. 468, § 5; Laws, 2013, ch. 486, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “fifteen (15)” for “ten (10)” in the last sentence of (2)(a); inserted “and any subsequent year” in (2)(b)(v); and substituted “Department of Revenue” for “State Tax Commission” in (3).

CHAPTER 93

Mississippi Existing Industry Productivity Loan Program

SEC.
57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

§ 57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

(1) As used in this section:

(a) “Existing industry” means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

(b) “Long-term fixed assets” means assets that:

(i) Through new technology will improve an enterprise’s productivity and competitiveness; and

(ii) Meet criteria established by the Mississippi Development Authority.

(c) “MDA” means the Mississippi Development Authority.

(2)(a) There is established the Mississippi Existing Industry Productivity Loan Program to be administered by the MDA for the purpose of providing loans to:

(i) Existing industries to deploy long-term fixed assets that through new technology will improve productivity and competitiveness;

(ii) Existing industries for the purchase or refinancing of land, buildings or equipment; and

(iii) Counties or incorporated municipalities to assist existing industries in deploying long-term fixed assets that through new technology will improve productivity and competitiveness and to assist existing industries through the purchase of land, buildings and equipment.

(b)(i) An existing industry that accepts a loan under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the loan is granted.

(ii) An existing industry that accepts assistance from a county or incorporated municipality through a loan made under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the assistance is granted.

(c) An existing industry desiring a loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A two-year business plan for the project;

(v) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;

- (vi) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the enterprise; and
 - (vii) Any other information required by the MDA.
- (d) A county or incorporated municipality desiring a loan under this section must submit an application to the MDA. The application shall include:
- (i) A description of the purpose for which the loan is requested;
 - (ii) The amount of the loan requested;
 - (iii) The estimated total cost of the project;
 - (iv) A statement showing the sources of funding for the project;
 - (v) A two-year business plan for the project;
 - (vi) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;
 - (vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the existing industry;
 - (viii) Any commitment by the existing industry to pay rental on, or to make loan repayments related to, the assistance; and
 - (ix) Any other information required by the MDA.
- (e) The MDA shall require that binding commitments be entered into requiring that:
- (i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and
 - (ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.
- (f) The rate of interest on loans under this section shall be set by the MDA.
- (g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section. However, in making loans under this section, the MDA shall attempt to provide for an equitable distribution of such loans among each of the congressional districts of this state in order to promote economic development across the entire state.
- (3)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Existing Industry Productivity Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes described in this section.
- (b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the

use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each loan by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds that are deposited into the fund. Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(c)(i) There is hereby created the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund from which the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and utilized to provide loans authorized under this section, shall be repaid. Unexpended amounts remaining in the bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the bond sinking fund shall be deposited into the bond sinking fund. At any time when the funds required to pay the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and are utilized to provide loans under this section are more than the amount available in the bond sinking fund, the Legislature shall appropriate the balance of the funds necessary to pay the principal and interest on such bonds.

(ii) Money repaid on loans authorized under this section that are derived from the proceeds of bonds deposited into the Mississippi Existing Industry Productivity Loan Fund shall be deposited into the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund.

(4)(a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA.

(c) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 1; Laws, 2007, ch. 382, § 1; Laws, 2009, ch. 557, § 23, eff from and after passage (approved Apr. 17, 2009.)

Amendment Notes — The 2009 amendment, in (2)(a), added (ii) and redesignated former (ii) as present (iii), and added “and to assist...buildings and equipment” at the end of (iii); deleted former (2)(f), which provided the maximum amount of a loan under this section; redesignated former (2)(g) as (2)(f) and substituted “set by the MDA” for “at the true interest cost on the most recent issue of twenty-year state general obligation bonds occureing prior to the date the loan is made”; redesignated former (2)(h) as present (2)(g); and substituted “that are deposited into the fund” for “issued under Sections 2 through 17 of Chapter 1, Laws of 2005, Third Extraordinary Session” at the end of the third sentence of (3)(b).

CHAPTER 97

Mississippi Delta Revitalization Act of 2006

SEC.

57-97-1 through 57-97-23. [Repealed]

§§ 57-97-1 through 57-97-23. [Repealed].

Repealed by Laws, 2006, ch. 444, § 13, effective July 1, 2009.

§ 57-97-1. [Laws, 2006, ch. 444, § 1, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-3. [Laws, 2006, ch. 444, § 2, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-5. [Laws, 2006, ch. 444, § 3, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-7. [Laws, 2006, ch. 444, § 4, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-9. [Laws, 2006, ch. 444, § 5, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-11. [Laws, 2006, ch. 444, § 6, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-13. [Laws, 2006, ch. 444, § 7, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-15. [Laws, 2006, ch. 444, § 8, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-17. [Laws, 2006, ch. 444, § 9, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-19. [Laws, 2006, ch. 444, § 10, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-21. [Laws, 2006, ch. 444, § 11, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-23. [Laws, 2006, ch. 444, § 12, eff from and after passage (approved Mar. 23, 2006.)]

Editor’s Note — Former § 57-97-1 provided the title of the Mississippi Delta Region Revitalization Act of 2006.

Former § 57-97-3 defined the Delta Region and provided legislative findings and declarations.

Former § 57-97-5 created the Special Task Force for Revitalization of the Mississippi Delta Region.

Former § 57-97-7 provided that the University Research Center Bureau of Comprehensive Long-Range Economic Development Planning was to serve the Special Task Force for Revitalization of the Mississippi Delta Region and the duties and responsibilities of the Bureau.

Former § 57-97-9 related to the mission and role of the Special Task Force.

Former § 57-97-11 required the Bureau to prepare a long-range action plan for revitalization of the region.

Former § 57-97-13 related to the contents of Part I of the revitalization action plan.

Former § 57-97-15 related to the contents of Part II of the revitalization action plan.

Former § 57-97-17 related to the contents of Part III of the revitalization action plan.

Former § 57-97-19 related to the contents of Part IV of the revitalization action plan.

Former § 57-97-21 related to the contents of Part V of the revitalization action plan.

Former § 57-97-23 provided the completion date for all five parts of the plan.

CHAPTER 99

Mississippi Major Economic Impact Withholding Rebate Incentive Program

Qualified Business or Industry — Companies and Their Affiliates	57-99-1
Qualified Business or Industry — Enterprises	57-99-21

QUALIFIED BUSINESS OR INDUSTRY — COMPANIES AND THEIR AFFILIATES

SEC.	
57-99-1.	Definitions.

§ 57-99-1. Definitions.

As used in Sections 57-99-1 through 57-99-9, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a) “Qualified business or industry” means any company and affiliates thereof, pursuant to rules and regulations of the MDA, which is:
 - (i) A project that has been certified by the Mississippi Major Economic Impact Authority (MMEIA) as a project defined in Section 57-75-5(f)(xxi) and creates at least one thousand five hundred (1,500) jobs within sixty (60) months of the beginning of the project;
 - (ii) A project that has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxii) and creates at least five hundred (500) jobs within seventy-two (72) months of the beginning of the project; or

(iii) A project:

1. That has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxviii);

2. Creates at least twenty-five (25) jobs within sixty (60) months of the beginning of the project; and

3. In which the average annual wages and taxable benefits of the jobs created by such project are at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located, as determined by the Mississippi Department of Employment Security, whichever is the lesser.

(b) “Qualified job” means full-time employment in this state within the project site of a qualified business or industry that has qualified to receive an incentive payment pursuant to Sections 57-99-1 through 57-99-9, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of Sections 57-99-1 through 57-99-9. “Qualified job” also shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment such as employees who are leased to and managed by the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment; provided, however, that in order for a qualified business or industry to receive incentive payments for such employees, the actual employer of the employees must agree to such payments being made to the qualified business or industry.

(c) “Full-time employment” means a job of at least thirty-five (35) hours per week.

(d) “Rebate amount” means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs; and

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry.

(e) “MDA” means the Mississippi Development Authority.

SOURCES: Laws, 2007, ch. 303, § 17; Laws, 2007, 1st Ex Sess, ch. 1, § 14; Laws, 2013, 1st Ex Sess, ch. 1, § 7, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2013 amendment added (a)(iii) and made related changes.

§ 57-99-3. Quarterly incentive payments to qualified companies and their affiliates; duration of payments; application; job requirements; notification of State Tax Commission.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Cross References — Quarterly incentive payments to qualified enterprises, see § 57-99-23.

§ 57-99-7. Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Cross References — Filing of claim for incentive payments by qualified enterprise, see § 57-99-27.

§ 57-99-9. Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

QUALIFIED BUSINESS OR INDUSTRY — ENTERPRISES

- SEC.
- 57-99-21. Definitions.
- 57-99-23. Quarterly incentive payments to qualified enterprises; duration of payments; application; job requirements; notification of State Tax Commission.
- 57-99-25. Creation of MMEIA Rebate Fund; purpose.
- 57-99-27. Filing of incentive payment claims; payments dependent on verification of number of qualified jobs created and maintained.
- 57-99-29. Mississippi Development Authority and State Tax Commission to promulgate rules and regulations.

§ 57-99-21. Definitions.

As used in Sections 57-99-21 through 57-99-29, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any enterprise which is a project that has been certified by the Mississippi Major Economic Impact Authority (MMEIA) as a project defined in Section 57-75-5(f)(xxiv).

(b) "Qualified job" means full-time employment at the location of the manufacturing plant in this state of a qualified business or industry that has qualified to receive an incentive payment pursuant to Sections 57-99-21 through 57-99-29, which employment existed in this state at the location of the manufacturing plant on July 1, 2009.

(c) "Full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Rebate amount" means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be one percent (1%) of the wages and taxable benefits for qualified jobs;

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry; and

(iii) In no event shall the aggregate amount of incentive payments authorized under Sections 57-99-21 through 57-99-29 exceed Six Million Dollars (\$6,000,000.00).

(e) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 302, § 4, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-23. Quarterly incentive payments to qualified enterprises; duration of payments; application; job requirements; notification of State Tax Commission.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in Sections 57-99-21 through 57-99-29 may receive quarterly incentive payments for a period not to exceed ten (10) years from the State Tax Commission pursuant to the provisions of Sections 57-99-21 through 57-99-29 in an amount which shall be equal to the lesser of one percent (1%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs.

(2) In order to receive incentive payments, an establishment shall apply to the MDA by not later than July 1, 2010. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must maintain a minimum of one thousand two hundred (1,200) qualified jobs.

(4) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of Sections 57-99-21 through 57-99-29. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

SOURCES: Laws, 2009, ch. 302, § 5, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-25. Creation of MMEIA Rebate Fund; purpose.

(1) There is created in the State Treasury a special fund to be known as the “MMEIA Rebate Fund,” into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under Sections 57-99-21 through 57-99-29.

(2) The liability of the State of Mississippi to make the incentive payments authorized under Sections 57-99-21 through 57-99-29 shall be limited to the balance contained in the fund.

SOURCES: Laws, 2009, ch. 302, § 6, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-27. Filing of incentive payment claims; payments dependent on verification of number of qualified jobs created and maintained.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the State Tax Commission and shall specify the actual number of qualified jobs created and maintained by the business or industry for the calendar quarter and the wages and taxable benefits thereof. The State Tax Commission shall verify the actual number of qualified jobs maintained by the business or industry. If the State Tax Commission is not able to provide such verification utilizing all available resources, the State Tax Commission may request such additional information from the business or industry as may be necessary.

(2) If the business or industry does not maintain the job requirements of Sections 57-99-21 through 57-99-29 at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of qualified jobs created and maintained by the business or industry

equals or exceeds the requirements of Sections 57-99-21 through 57-99-29 for one (1) calendar quarter.

(3) An establishment that has qualified pursuant to Sections 57-99-21 through 57-99-29 may receive payments only in accordance with the provision under which it initially applied and was approved.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of Sections 57-99-21 through 57-99-29 and all rules and regulations, the Department of Finance and Administration, upon requisition of the State Tax Commission, shall issue a warrant drawn on the MMEIA Withholding Rebate Fund to the establishment in the amount of the rebate as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2009, ch. 302, § 7, eff from and after passage (approved Feb. 3, 2009.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation deleted the paragraph designation “(a)” from subsection (2) since there is no paragraph (b). The Joint Committee ratified the correction at its July 22, 2010, meeting.

§ 57-99-29. Mississippi Development Authority and State Tax Commission to promulgate rules and regulations.

The MDA and the State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of Sections 57-99-21 through 57-99-29.

SOURCES: Laws, 2009, ch. 302, § 8, eff from and after passage (approved Feb. 3, 2009.)

CHAPTER 100

Existing Industry Withholding Rebate Incentive Program

SEC.	
57-100-1.	Definitions.
57-100-3.	Quarterly incentive payments to qualified business or industry; duration of payments; application; job requirements; notification of State Tax Commission.
57-100-5.	Creation of Existing Industry Withholding Rebate Fund; purpose.
57-100-7.	Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.
57-100-9.	Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

§ 57-100-1. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Qualified business or industry” means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

(b) “Qualified job” means a full-time job in this state:

(i) At the location of a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter;

(ii) Which did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter; and

(iii) The average annual salary of which is at least one hundred percent (100%) of the state or county average annual wage, whichever is the lesser.

(c) “Full-time employment” means a job of at least thirty-five (35) hours per week.

(d) “Rebate amount” means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs; and

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry.

(e) “MDA” means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 557, § 16, eff from and after passage (approved Apr. 17, 2009.)

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Laws 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

§ 57-100-3. Quarterly incentive payments to qualified business or industry; duration of payments; application; job requirements; notification of State Tax Commission.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed two (2) years from the State Tax Commission pursuant to the provisions of this chapter in an amount which shall be equal to the lesser of three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs. The two-year period shall begin the quarter after the State Tax Commission verifies that the required number of jobs have been created.

(2) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must create a minimum of ten (10) qualified jobs within six (6) months after the date of the application and maintain at least ten (10) qualified jobs.

(4) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The State Tax Commission shall verify that at least ten (10) qualified jobs have been created within six (6) months after the date of the application before incentive payments may begin. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

(5) No applications shall be accepted by MDA from and after July 1, 2011.

SOURCES: Laws, 2009, ch. 557, § 17, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Laws 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

§ 57-100-5. Creation of Existing Industry Withholding Rebate Fund; purpose.

(1) There is created in the State Treasury a special fund to be known as the “Existing Industry Withholding Rebate Fund,” into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under this chapter.

(2) The liability of the State of Mississippi to make the incentive payments authorized under this chapter shall be limited to the balance contained in the fund.

SOURCES: Laws, 2009, ch. 557, § 18, eff from and after passage (approved Apr. 17, 2009.)

Editor’s Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Laws 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

§ 57-100-7. Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the State Tax Commission and shall specify the actual number of qualified jobs created and maintained by the business or industry for the calendar quarter and the wages and taxable benefits thereof. The State Tax Commission shall verify the actual number of qualified jobs created and maintained by the business or industry. If the State Tax Commission is not able to provide such verification utilizing all available resources, the State Tax Commission may request such additional information from the business or industry as may be necessary.

(2) If the business or industry does not maintain the job requirements of this chapter at any other time during the two-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of qualified jobs created and maintained by the business or industry equals or exceeds the requirements of this chapter for one (1) calendar quarter.

(3) A qualified business or industry that has qualified pursuant to this chapter may receive payments only in accordance with the provision under which it initially applied and was approved. If an establishment that is

receiving incentive payments expands, it may apply for additional incentive payments based on the wages and taxable benefits for qualified jobs anticipated from the expansion only, pursuant to this chapter.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of this chapter and all rules and regulations, the Department of Finance and Administration, upon requisition of the State Tax Commission, shall issue a warrant drawn on the Existing Industry Withholding Rebate Fund to the establishment in the amount of the rebate as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2009, ch. 557, § 19, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Laws 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

§ 57-100-9. Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

The MDA and the State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of this chapter.

SOURCES: Laws, 2009, ch. 557, § 20, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

Laws 2009, ch. 557, § 57, provides:

“SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi.”

CHAPTER 101

Mississippi Major Economic Impact Authority Component Construction Material Costs Rebate Program

SEC.

57-101-1 through 57-101-5. Repealed

§§ 57-101-1 through 57-101-5. Repealed.

Repealed by Laws of 2013, ch. 447, § 5, effective from and after July 1, 2013.

§ 57-101-1. [Laws, 2007, ch. 303, § 23, eff from and after passage (approved Mar. 2, 2007..)]

§ 57-101-3. [Laws, 2007, ch. 303, § 24, eff from and after passage (approved Mar. 2, 2007..)]

§ 57-101-5. [Laws, 2007, ch. 303, § 25, eff from and after passage (approved Mar. 2, 2007..)]

Editor's Note — Former § 57-101-1 defined terms and phrases used in §§ 57-101-1 through 57-101-5.

Former § 57-101-3 created MMEIA Tax Incentive Fund.

Former § 57-101-5 pertained to the development, implementation and administration of the program.

Cross References — Transfer of all money in the MMEIA Tax Incentive Fund created by former § 57-101-3 to the Mississippi Development Authority Job Training Grant Fund, see § 57-1-451 and notes thereunder.

CHAPTER 103**Technology Based Business Capital Assistance Programs**

SEC.

57-103-11. Mississippi Technology Alliance Administration Fund created; purpose; disbursement of monies; Mississippi Technology Alliance to develop performance monitoring system and make annual performance report before receiving funds.

§ 57-103-11. Mississippi Technology Alliance Administration Fund created; purpose; disbursement of monies; Mississippi Technology Alliance to develop performance monitoring system and make annual performance report before receiving funds.

(1) There is created in the State Treasury a special fund, to be designated as the "Mississippi Technology Alliance Administration Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to defray the costs incurred by the Mississippi Technology Alliance in the implementation and administration of the programs created in Sections 57-103-1 through 57-103-9.

(2)(a) Before January 1, 2010, the Mississippi Technology Alliance shall devise and implement a performance monitoring system consisting of the following:

- (i) Objectives and benchmarks for each program;
- (ii) Performance measures for each program; and
- (iii) A definition of the return on investment that is appropriate and accurate for every program.

(b) From and after January 1, 2011, the Mississippi Technology Alliance shall report annually to the Mississippi Development Authority and the Legislature as to its success in meeting its program objectives and performance measures required by this subsection (2).

(c) The Mississippi Development Authority may not disburse any funds to the Mississippi Technology Alliance, unless it has met the reporting requirements of this subsection (2).

SOURCES: Laws, 2007, ch. 459, § 6; Laws, 2009, ch. 406, § 1, eff from and after July 1, 2009.

Amendment Notes — The 2009 amendment added (2).

CHAPTER 105

Qualified Equity Investment Tax Credits and Public Entity Financing Arrangements

SEC.
57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

§ 57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

(1) As used in this section:

(a) “Adjusted purchase price” means the investment in the qualified community development entity for the qualified equity investment, substantially all of the proceeds of which are used to make qualified low-income community investments in Mississippi.

For the purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment will be considered held by a qualified community development entity even if the investment has been sold or repaid; provided that the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment in Mississippi, including any federal Indian reservation located within the geographical boundary of Mississippi within twelve (12) months of the receipt of such capital. A

qualified community development entity will not be required to reinvest capital returned from the qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment will be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(b) "Applicable percentage" means:

(i) For any equity investment issued prior to July 1, 2008, four percent (4%) for each of the second through seventh credit allowance dates for purposes of the taxes imposed by Section 27-7-5 and one and one-third percent (1- $\frac{1}{3}$ %) for each of the second through seventh credit allowance dates for purposes of the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(ii) For any equity investment issued from and after July 1, 2008, eight percent (8%) for each of the first through third credit allowance dates for purposes of the taxes imposed by Section 27-7-5 or the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(c) "Credit allowance date" means, with respect to any qualified equity investment:

(i) The date upon which the investment is initially made (or in the case of an investment made prior to the allocation of credits based on such investment, the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment); and

(ii) 1. For equity investments issued prior to July 1, 2008, each of the subsequent six (6) anniversary dates of the date upon which the investment is initially made; or

2. For equity investments issued from and after July 1, 2008, each of the subsequent two (2) anniversary dates of the date upon which the investment is initially made (or in the case of an investment made prior to the allocation of credits based on such investment, the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment).

(d) "Qualified community development entity" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended, if the entity has entered into an Allocation Agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended.

(e) "Qualified active low-income community business" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended.

(f) "Qualified equity investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended. The investment does not have to be designated as a qualified equity

investment by the Community Development Financial Institutions Fund of the United States Treasury to be considered a qualified equity investment under this section but otherwise must meet the definition under the Internal Revenue Code. In addition to meeting the definition in Section 45D of the Internal Revenue Code such investment must also:

- (i) Have been acquired after January 1, 2007, at its original issuance solely in exchange for cash; and
- (ii) Have been allocated by the Mississippi Development Authority.

For the purposes of this section, such investment shall be deemed a qualified equity investment on the later of the date such qualified equity investment is made or the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment.

(g) "Qualified low-income community investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided, however, that the maximum amount of qualified low-income community investments issued for a single qualified active low-income community business, on an aggregate basis with all of its affiliates, that may be included for purposes of allocating any credits under this section shall not exceed Ten Million Dollars (\$10,000,000.00), in the aggregate, whether issued by one (1) or several qualified community development entities.

(2) A taxpayer that holds a qualified equity investment on the credit allowance date of the qualified equity investment shall be entitled to a credit applicable against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 during the taxable year that includes the credit allowance date. The amount of the credit shall be equal to the applicable percentage of the adjusted purchase price paid to the qualified community development entity for the qualified equity investment. The amount of the credit that may be utilized in any one (1) tax year shall be limited to an amount not greater than the total tax liability of the taxpayer for the taxes imposed by the above-referenced sections. The credit shall not be refundable or transferable. Any unused portion of the credit may be carried forward for seven (7) taxable years beyond the credit allowance date on which the credit was earned. The maximum aggregate amount of qualified equity investments that may be allocated by the Mississippi Development Authority may not exceed an amount that would result in taxpayers claiming in any one (1) state fiscal year credits in excess of Fifteen Million Dollars (\$15,000,000.00), exclusive of credits that might be carried forward from previous taxable years; however, a maximum of one-third ($\frac{1}{3}$) of this amount may be allocated as credits for taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123. Any taxpayer claiming a credit under this section against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 shall not be required to pay any additional tax under Section 27-15-123 as a result of claiming such credit. The Mississippi Development Authority shall allocate credits within this limit as provided for in subsection (4) of this section.

(3) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document. Such allocation shall be made each taxable year of such pass-through entity which contains a credit allowance date.

(4) The qualified community development entity shall apply for credits with the Mississippi Development Authority on forms prescribed by the Mississippi Development Authority. The qualified community development entity must pay an application fee of One Thousand Dollars (\$1,000.00) to the Mississippi Development Authority at the time the application is submitted. In the application the qualified community development entity shall certify to the Mississippi Development Authority the dollar amount of the qualified equity investments made or to be made in this state, including in any federal Indian reservation located within the state's geographical boundary, during the first twelve-month period following the initial credit allowance date. The Mississippi Development Authority shall allocate credits based on the dollar amount of qualified equity investments as certified in the application. Once the Mississippi Development Authority has allocated credits to a qualified community development entity, if the corresponding qualified equity investment has not been issued as of the date of such allocation, then the corresponding qualified equity investment must be issued not later than sixty (60) days from the date of such allocation. If the qualified equity investment is not issued within such time period, the allocation shall be cancelled and returned to the Mississippi Development Authority for reallocation. Upon final documentation of the qualified low-income community investments, if the actual dollar amount of the investments is lower than the amount estimated, the Mississippi Development Authority shall adjust the tax credit allowed under this section. The Department of Revenue may recapture all of the credit allowed under this section if:

(a) Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(b) The qualified community development entity redeems or makes any principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of the qualified equity investment; or

(c) The qualified community development entity fails to maintain at least eighty-five percent (85%) of the proceeds of the qualified equity investment in qualified low-income community investments in Mississippi at any time prior to the seventh anniversary of the issuance of the qualified equity investment.

Any credits that are subject to recapture under this subsection shall be recaptured from the taxpayer that actually claimed the credit.

The Mississippi Development Authority shall not allocate any credits under this section after January 1, 2014.

(5) Each qualified community development entity that receives qualified equity investments to make qualified low-income community investments in Mississippi must annually report to the Mississippi Development Authority the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment.

(6) The Mississippi Development Authority shall file an annual report on all qualified low-income community investments with the Governor, the Clerk of the House of Representatives, the Secretary of the Senate and the Secretary of State describing the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment. The annual report will be posted on the Mississippi Development Authority's Internet website.

(7)(a) The purpose of this subsection is to authorize the creation and establishment of public benefit corporations for financing arrangements regarding public property and facilities.

(b) As used in this subsection:

(i) "New Markets Tax Credit transaction" means any financing transaction which utilizes either this section or Section 45D of the Internal Revenue Code of 1986, as amended.

(ii) "Public benefit corporation" means a nonprofit corporation formed or designated by a public entity to carry out the purposes of this subsection.

(iii) "Public entity or public entities" includes utility districts, regional solid waste authorities, regional utility authorities, community hospitals, regional airport authorities, community and junior colleges, educational building corporations established by or on behalf of the state institutions of higher learning, school districts, planning and development districts, county economic development districts, urban renewal agencies, any other regional or local economic development authority, agency or governmental entity, and any other regional or local industrial development authority, agency or governmental entity.

(iv) "Public property or facilities" means any property or facilities owned or leased by a public entity or public benefit corporation.

(b) Notwithstanding any other provision of law to the contrary, public entities are authorized pursuant to this subsection to create one or more public benefit corporations or designate an existing corporation as a public benefit corporation for the purpose of entering into financing agreements and engaging in New Markets Tax Credit transactions, which shall include, without limitation, arrangements to plan, acquire, renovate, construct, lease, sublease, manage, operate and/or improve new or existing public

property or facilities located within the boundaries or service area of the public entity. Any financing arrangement authorized under this subsection shall further any purpose of the public entity and may include a term of up to fifty (50) years.

(d) Notwithstanding any other provision of law to the contrary and in order to facilitate the acquisition, renovation, construction, leasing, subleasing, management, operating and/or improvement of new or existing public property or facilities to further any purpose of a public entity, public entities are authorized to enter into financing arrangements in order to transfer public property or facilities to and/or from public benefit corporations, including, without limitation, sales, sale-leasebacks, leases and lease-leasebacks, provided such transfer is related to any New Markets Tax Credit transaction furthering any purpose of the public entity. Any such transfer under this paragraph (d) and the public property or facilities transferred in connection therewith shall be exempted from any limitation or requirements with respect to leasing, acquiring, and/or constructing public property or facilities.

(e) With respect to a New Markets Tax Credit transaction, public entities and public benefit corporations are authorized to enter into financing arrangements with any governmental, nonprofit or for-profit entity in order to leverage funds not otherwise available to public entities for the acquisition, construction and/or renovation of properties transferred to such public benefit corporations. The use of any funds loaned by or contributed by a public benefit corporation or borrowed by or otherwise made available to a public benefit corporation in such financing arrangement shall be dedicated solely to (i) the development of new properties or facilities and/or the renovation of existing properties or facilities or operation of properties or facilities, and/or (ii) the payment of costs and expenditures related to any such financing arrangements including, but not limited to, funding any reserves required in connection therewith, the repayment of any indebtedness incurred in connection therewith, and the payment of fees and expenses incurred in connection with the closing, administration, accounting and/or compliance with respect to the New Markets Tax Credit transaction.

(f) A public benefit corporation created pursuant to this subsection shall not be a political subdivision of the state but shall be a nonprofit corporation organized and governed under the provisions of the laws of this state and shall be a special purpose corporation established to facilitate New Markets Tax Credit transactions consistent with the requirements of this section.

(g) Neither this subsection nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the public entity or public benefit corporation might otherwise have under any laws of this state, and this subsection is cumulative to any such powers. This subsection does and shall be construed to provide a complete additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws.

(8) The Mississippi Development Authority shall promulgate rules and regulations to implement the provisions of this section.

SOURCES: Laws, 2007, ch. 528, § 1; Laws, 2008, ch. 456, § 1; Laws, 2009, ch. 456, § 1; Laws, 2012, ch. 446, § 1; Laws, 2013, ch. 506, § 1, eff from and after Jan. 1, 2007.

Amendment Notes — The 2009 amendment added “and 27-15-123” to the end of (1)(b)(i) and (ii); added the second sentence and rewrote the third sentence in (1)(f); in (2), inserted “and 27-15-123” following “27-15-109” twice, and added the next-to-last sentence; and made minor stylistic changes.

The 2012 amendment added “including any federal Indian reservation located within the geographical boundary of Mississippi” preceding “within twelve (12) months of the receipt of such capital” at the end of the first sentence in the second paragraph of (1)(a); in the third sentence of (4), added “including in any federal Indian reservation located within the state’s geographical boundary” following “qualified equity investments to be made in this state”, and substituted “sixty (60)” for “thirty (30)” preceding “days from the date of such allocation”; and added (7).

The 2013 amendment rewrote (1)(c)(i); added language beginning “(or in the case of an investment” at the end of (1)(c)(i) and (1)(c)(ii)2; added the last paragraph of (1)(f); and deleted “anticipated” preceding “dollar amount” in the third and fourth sentences and rewrote the fifth sentence of (4).

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

CHAPTER 107

Mississippi Workforce Training Projects

Article 1.	Delta Area Workforce Training Project [Repealed effective July 1, 2016]	57-107-1
Article 3.	Southwest Mississippi Area Workforce Training Project [Repealed]	

ARTICLE 1.

DELTA AREA WORKFORCE TRAINING PROJECT [REPEALED EFFECTIVE JULY 1, 2016].

SEC.	
57-107-1.	Mississippi Delta Area Workforce Training Project created; pilot program goals [Repealed effective July 1, 2016].
57-107-3.	Delta workforce coordinator for job retention and expansion to administer pilot program; coordinator’s duties; Delta region workforce team; funding of office [Repealed effective July 1, 2016].
57-107-5.	Delta Workforce Cabinet creation, composition; cabinet to be representative of all areas of Delta region; review of ongoing work of office of workforce coordinator [Repealed effective July 1, 2016].
57-107-7.	Report on status of Mississippi Delta Area Workforce Training Project [Repealed effective July 1, 2016].

§ 57-107-1. Mississippi Delta Area Workforce Training Project created; pilot program goals [Repealed effective July 1, 2016].

There is created the Mississippi Delta Area Workforce Training Project, a pilot program aimed at implementing coordinated strategies for improving the retention and expansion of jobs in the Mississippi Delta region. The goals of the pilot program shall include reducing or eliminating the complexity of access to workforce assistance programs for existing and prospective employers and to create a one-stop accountable, accessible and reliable means to join workforce needs with workforce services in the Delta.

SOURCES: Laws, 2009, ch. 471, § 1; reenacted without change, Laws, 2011, ch. 480, § 35, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

“SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011.”

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-107-3. Delta workforce coordinator for job retention and expansion to administer pilot program; coordinator's duties; Delta region workforce team; funding of office [Repealed effective July 1, 2016].

(1) The pilot program shall be administered by a Delta Workforce Coordinator for Job Retention and Expansion, whose office shall be located centrally in the Mississippi Delta region. The Delta Workforce Coordinator shall be appointed by the Delta Workforce Cabinet created under Section 57-107-5. Subject to the availability of funding, the Delta Workforce Coordinator may employ such support and clerical staff as may be necessary to accomplish the goals of the Mississippi Delta Area Workforce Training Project.

(2) The following are the primary duties of the Delta Workforce Coordinator:

(a) To arrange and conduct meetings with existing employers in the Delta region and prospective employers considering locating in the Delta region in order to identify employment training needs, opportunities, problems and possible solutions to such problems;

(b) To identify employer needs and challenges and to pursue opportunities in a coordinated, strategic manner for job retention and expansion through meeting individually and jointly with the Delta region's workforce team, including:

(i) Local and regional economic development entities and other MDA departments;

(ii) The Board of the Delta Workforce Investment Area;

(iii) The Mississippi Department of Employment Security, Office of the Governor, and local Workforce Investment Network job centers; and

(iv) Representatives of Coahoma Community College, Holmes Community College, Mississippi Delta Community College and Northwest Mississippi Community College;

(c) To organize, coordinate and support the meetings and work of the Delta Workforce Cabinet, including providing any staff support that the cabinet may request; and

(d) To perform such other duties as may be directed by the MDA.

(3) The office of the Delta Workforce Coordinator for Job Retention and Expansion shall be funded by local contributions from governmental agencies and private entities. The Delta Workforce Coordinator may receive and expend matching funds from the local county and municipal governments in the Delta region for the support of the pilot program, and any state, local or private funds available to the Mississippi Delta Area Workforce Training Project may be used by the Delta Workforce Coordinator to match any federal funds available to support the work of the pilot program.

SOURCES: Laws, 2009, ch. 471, § 2; reenacted without change, Laws, 2011, ch. 480, § 36, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

“SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011.”

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-107-5. Delta Workforce Cabinet creation, composition; cabinet to be representative of all areas of Delta region; review of ongoing work of office of workforce coordinator [Repealed effective July 1, 2016].

(1) There is created the Delta Workforce Cabinet, an advisory group that shall be composed of the following twelve (12) members:

(a) The President of Coahoma Community College or an employee of the college so designated by the president;

(b) The President of Holmes Community College or an employee of the college so designated by the president;

(c) The President of Mississippi Delta Community College or an employee of the college so designated by the president;

(d) The President of Northwest Mississippi Community College or an employee of the college so designated by the president;

(e) The Executive Director of MDA or an employee of MDA so designated by the executive director;

(f) The Executive Director of the Mississippi Department of Employment Security, Office of the Governor, or an employee of the department so designated by the executive director;

- (g) The Director of the Delta Workforce Investment Area;
- (h) Two (2) recognized Delta area business leaders to be appointed by the Speaker of the House;
- (i) Two (2) recognized Delta area business leaders to be appointed by the Lieutenant Governor; and
- (j) One (1) recognized Delta area business leader to be appointed by the Governor.

(2) It is the intent of the Legislature that the Delta Workforce Cabinet be constituted in such a way that all areas of the Delta region are represented, and the appointing authorities are encouraged to coordinate their appointments to achieve a balanced cabinet with representation from throughout the Delta region. Vacancies on the cabinet must be filled in the manner consistent with the original appointments.

(3) The Delta Workforce Cabinet shall meet no less than quarterly to review the ongoing work of the office of the Delta Workforce Coordinator for Job Retention and Expansion and to ensure that proper coordination of workforce services and joint cooperation are extended to existing and prospective Delta area employers on a sustaining basis.

SOURCES: Laws, 2009, ch. 471, § 3; reenacted without change, Laws, 2011, ch. 480, § 37, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

“SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011.”

Amendment Notes — The 2011 amendment reenacted the section without change.

§ 57-107-7. Report on status of Mississippi Delta Area Workforce Training Project [Repealed effective July 1, 2016].

Before January 1, 2011, the Delta Workforce Coordinator for Job Retention and Expansion shall submit a report on behalf of the Delta Workforce Cabinet to the Legislature and Governor on the status of the Mississippi Delta Area Workforce Training Project. The report shall include, but not necessarily be limited to, a description of the activities undertaken through the pilot program and an evaluation of the project's effectiveness in accomplishing the goals of the pilot program.

SOURCES: Laws, 2009, ch. 471, § 4; reenacted without change, Laws, 2011, ch. 480, § 38, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

“SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011.”

Amendment Notes — The 2011 amendment reenacted the section without change.

ARTICLE 3.

SOUTHWEST MISSISSIPPI AREA WORKFORCE TRAINING PROJECT [REPEALED].

§§ 57-107-101 through 57-107-107. Repealed.

Repealed by Laws, 2009, ch. 471, § 9, as amended by Laws, 2011, ch. 480, § 39, effective from and after July 1, 2011.

§ 57-107-101. [Laws, 2009, ch. 471, 5, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-103. [Laws, 2009, ch. 471, 6, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-105. [Laws, 2009, ch. 471, 7, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-107. [Laws, 2009, ch. 471, 8, eff from and after passage (approved Mar. 30, 2009.)]

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."

Former § 57-107-101 created the Southwest Mississippi Area Workforce Training Project and provided the pilot program goals.

Former § 57-107-103 provided that the pilot program would be administered by a Southwest Mississippi Workforce Coordinator for Job Retention and Expansion.

Former § 57-107-105 related to the creation and composition of the Southwest Mississippi Workforce Cabinet.

Former § 57-107-107 required the Southwest Mississippi Workforce Coordinator for Job Retention and Expansion to submit a status report.

CHAPTER 111**Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program**

SEC.
57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

§ 57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

(1) As used in this section:

(a) "MDA" means the Mississippi Development Authority.

(b) "Program" means the Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program established in this section.

(c) "Small business" means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars (\$7,000,000.00) in gross revenues or less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in net annual profit after taxes.

(d) "Existing forestry industry enterprise" means a manufacturing enterprise that:

(i) Has its principal place of business in this state;

(ii) Has been operating in this state for not less than three (3) consecutive years preceding the date of submitting an application for assistance under this section;

(iii) Performs the initial processing of pine logs and/or hardwood logs in the production of lumber products or is engaged in the production of poles and/or timbers; and

(iv) Has employed an average of not less than fifteen (15) employees based on the most recent thirty-six-month period preceding the date that the enterprise submits an application for assistance under this section.

The term "existing forestry industry enterprise" does not include any (a) enterprise with the primary business of producing chips or (b) pulp manufacturer and/or paper manufacturer.

(2) The MDA shall establish a program of loans to be made to small businesses and existing forestry industry enterprises for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to small businesses and existing forestry industry enterprises by private institutions. Money to make the loans under the program shall be drawn by the MDA from the Small Business Participating Loan Program Revolving Fund. The amount of a loan to any single small business or existing forestry industry enterprise under the program shall not exceed fifty percent (50%) of the total cost of the project for which financing is sought. Interest shall be charged on the loans at a rate equal to one percent (1%) above the current published prime rate. The term of any loan made under this section shall not exceed five (5) years. Repayments of loans made by the MDA under the program shall be deposited to the credit of the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund. Small businesses may utilize loan proceeds for buildings, equipment and working capital. An existing forestry industry enterprise that receives a loan under this section may use the loan proceeds for the purpose of providing working capital, acquiring machinery and equipment, making upgrades and improvements to machinery and equipment, acquiring raw materials and any other purposes approved by the MDA.

(3) There is created a special fund in the State Treasury to be known as the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the

fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (2) of this section.

(4) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for a loan shall not exceed three percent (3%) of the proceeds of bonds issued for such loan. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 2010, ch. 533, § 8, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

CHAPTER 113

Business Enterprise Tax Exemptions

Article 1.	Business Enterprise Tax Exemptions: Clean Energy Generation and Aerospace Industry Enterprises	57-113-1
Article 3.	Business Enterprise Tax Exemptions: Data Center Enterprises	57-113-21

ARTICLE 1.

BUSINESS ENTERPRISE TAX EXEMPTIONS: CLEAN ENERGY GENERATION AND AEROSPACE INDUSTRY ENTERPRISES.

SEC.	
57-113-1.	Definitions.
57-113-3.	Application for tax exemptions.
57-113-5.	Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.
57-113-7.	Promulgation of rules and regulations.

§ 57-113-1. Definitions.

As used in this article:

(a) "Business enterprise" means:

(i) Any enterprise owning or operating a facility for the manufacture or assembly of systems or components used in the generation of clean energy that locates or expands in this state which will have a minimum capital investment in this state of Fifty Million Dollars (\$50,000,000.00) and will create a minimum of two hundred fifty (250) new, full-time jobs.

(ii) Any enterprise owning or operating a facility that manufactures or assembles products for the aerospace industry or provides research and development or training services in the aerospace industry that locates or expands in this state, which will have a minimum capital investment in this state of Thirty Million Dollars (\$30,000,000.00) and will create a minimum of one hundred (100) new, full-time jobs.

(b) “Aerospace industry” means the industry that researches, designs, manufactures, repairs, operates and/or maintains vehicles moving through the air and space.

(c) “Biomass” means and includes any of the following:

(i) Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or nonmerchantable forest-related products;

(ii) Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings;

(iii) Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients;

(iv) All plant and grass material that is grown exclusively as a fuel for the production of electricity;

(v) Refuse derived fuels consisting of organic components and fibers of waste water treatment solids; or

(vi) Whole trees.

(d) “Clean energy” means energy that is generated from either:

(i) A renewable energy source such as wind, water, biomass or solar; or

(ii) An alternative energy source such as nuclear.

(e) “MDA” means the Mississippi Development Authority.

(f) “State tax” means:

(i) Any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise certified by the Mississippi Development Authority;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the Mississippi Development Authority; and

(iv) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the Mississippi Development Authority.

SOURCES: Laws, 2010, ch. 533, § 12, eff from and after passage (approved July 1, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-3. Application for tax exemptions.

Business enterprises wishing to apply for the tax exemptions authorized by this article shall make application to the MDA prior to construction or acquisition of the buildings for the location or expansion of the business enterprise in this state. The application shall, at a minimum, contain:

(a) An overview of the project that includes the selected site, the number of jobs proposed, the length of time necessary for the company to meet its investment and employment requirements;

(b) A two-year business plan, which shall include pro forma financial statements for the project;

(c) Data supporting the expertise of the project's principals;

(d) An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and

(e) Such information as may be requested by the MDA.

SOURCES: Laws, 2010, ch. 533, § 13, eff from and after passage (approved July 1, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-5. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

(1) Upon approval of the application, the MDA shall issue certification designating the business enterprise as eligible for the tax exemptions authorized by this article. This certification shall document the date by which all commitments must be met.

(2) Upon the issuance of the certification, the business enterprise shall be exempt from state taxes for a period of ten (10) years subject to the perfor-

mance requirements set out in the agreement required by subsection (3)(c) of this section. If the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the period of time by which the minimum requirements must be met and duration of the exemption from state taxes for not more than two (2) years. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(3) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions:

(a) Any exemption provided under this article is nontransferable and cannot be applied, used or assigned to any other person or business or tax account without prior approval by the MDA;

(b) No approved business enterprise may claim or use the exemption granted under this article unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and

(c) The business enterprise must enter into an agreement with the MDA which sets out, at a minimum, the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the business enterprise are not met.

(4) Upon certifying a business enterprise as eligible for the exemptions under this article, the MDA shall forward the certification along with any other necessary information to the Department of Revenue so that the exemptions can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of the state tax exemptions granted under this article.

SOURCES: Laws, 2010, ch. 533, § 14, eff from and after passage (approved July 1, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

“Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage.”

§ 57-113-7. Promulgation of rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this article.

SOURCES: Laws, 2010, ch. 533, § 15, eff from and after passage (approved July 1, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

ARTICLE 3.

BUSINESS ENTERPRISE TAX EXEMPTIONS: DATA CENTER ENTERPRISES.

SEC.

- 57-113-21. Definitions.
- 57-113-23. Application for tax exemptions.
- 57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.
- 57-113-27. Promulgation of rules and regulations.

§ 57-113-21. Definitions.

As used in this article:

(a) "Business enterprise" means any business enterprise owning or operating a data center with a minimum capital investment in this state of Fifty Million Dollars (\$50,000,000.00) which will create a minimum of fifty (50) new, full-time jobs with a minimum average annual salary of not less than one hundred fifty percent (150%) of the average annual state wage.

(b) "Data center" means a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce, to store, manage or manipulate digital data.

(c) "MDA" means the Mississippi Development Authority.

(d) "State tax" means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority; and

(ii) Any sales and use tax imposed by law on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center.

SOURCES: Laws, 2010, ch. 533, § 16, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-23. Application for tax exemptions.

Business enterprises wishing to apply for the tax exemptions authorized by this article shall make application to the MDA prior to construction or acquisition of the buildings for the location or expansion of the business enterprise in this state. The application, at a minimum, shall contain:

(a) An overview of the project that includes the selected site, the number of jobs proposed, the length of time necessary for the company to meet its investment and employment requirements;

(b) A two-year business plan, which shall include pro forma financial statements for the project and any service contracts to be performed at the Mississippi facility;

(c) Data supporting the expertise of the project's principals;

(d) An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and

(e) Such information as may be requested by the MDA.

SOURCES: Laws, 2010, ch. 533, § 17, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

(1) Upon approval of the application, the MDA shall issue a certification designating the business enterprise as eligible for the tax exemptions authorized by this article. This certification shall document the date by which all commitments must be met.

(2) Upon the issuance of the certification, the business enterprise shall be exempt from state taxes subject to the performance requirements set out in the agreement required by subsection (3)(c) of this section.

(3) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions:

(a) Any exemption provided under this article is nontransferable and cannot be applied, used or assigned to any other person or business or tax account without prior approval by the MDA;

(b) No approved business enterprise may claim or use the exemption granted under this article unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and

(c) The business enterprise must enter into an agreement with the MDA which sets out, at a minimum, the performance requirements of the

approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the business enterprise are not met.

(4) Upon certifying a business enterprise as eligible for the exemptions under this article, the MDA shall forward the certification along with any other necessary information to the Department of Revenue so that the exemptions can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of the state tax exemptions granted under this article.

SOURCES: Laws, 2010, ch. 533, § 18, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-27. Promulgation of rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this article.

SOURCES: Laws, 2010, ch. 533, § 19, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

CHAPTER 115

Mississippi Small Business Investment Company Act

SEC.	
57-115-1.	Short title.
57-115-3.	Definitions.
57-115-5.	Application for small business investment credit; application for certification as small business investment company; computation of credit against investor's state premium tax liability; allocation of tax credits.
57-115-7.	Requirements for maintaining certification as small business investment company; reports; distributions.
57-115-9.	Annual review of small business investment companies; grounds for decertification; registration of investments for which tax credits are awarded; annual report by MDA; report contents.
57-115-11.	Rules and regulations for implementation of chapter.

§ 57-115-1. Short title.

This chapter shall be known and may be cited as the Mississippi Small Business Investment Company Act.

SOURCES: Laws, 2011, ch. 524, § 1, eff from and after July 1, 2011.

§ 57-115-3. Definitions.

As used in this chapter, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Affiliate” means:

(i) Any person who, directly or indirectly, beneficially owns, controls, or holds power to vote fifteen percent (15%) or more of the outstanding voting securities or other voting ownership interest of a Mississippi small business investment company or insurance company; and

(ii) Any person, fifteen percent (15%) or more of whose outstanding voting securities or other voting ownership interests are directly or indirectly beneficially owned, controlled, or held, with power to vote by a Mississippi small business investment company or insurance company. Notwithstanding this paragraph (a), an investment by a participating investor in a Mississippi small business investment company pursuant to an allocation of tax credits under this chapter does not cause that Mississippi small business investment company to become an affiliate of that participating investor.

(b) “Allocation date” means the date on which credits are allocated to the participating investors of a Mississippi small business investment company under this chapter.

(c) “MDA” means the Mississippi Development Authority.

(d) “Department” means the Mississippi Department of Banking and Consumer Finance.

(e) “Designated capital” means an amount of money that:

(i) Is invested by a participating investor in a Mississippi small business investment company; and

(ii) Fully funds the purchase price of a participating investor’s equity interest in a Mississippi small business investment company or a qualified debt instrument issued by a Mississippi small business investment company, or both.

(f) “Mississippi small business investment company” means a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that:

(i) Has its principal office located in Mississippi or is headquartered in Mississippi;

(ii) Has as its primary business activity the investment of cash in qualified businesses; and

(iii) Is certified by the MDA as meeting the criteria described in this section to qualify as either a primary or secondary Mississippi small business investment company.

(g) “Participating investor” means any insurer that contributes designated capital pursuant to this chapter.

(h) “Person” means any natural person or entity, including, but not limited to, a corporation, general or limited partnership, trust, or limited liability company.

(i) “Qualified business” means a business that is independently owned and operated and meets all of the following requirements:

(i) It is headquartered in Mississippi, its principal business operations are located in Mississippi and at least eighty percent (80%) of its employees are located in Mississippi;

(ii) It has not more than one hundred (100) employees at the time of the first qualified investment in the business;

(iii) It is not more than ten percent (10%) engaged in:

1. Professional services provided by accountants, doctors, or lawyers;

2. Banking or lending;

3. Real estate development;

4. Retail;

5. Insurance; or

6. Making loans to or investments in a Mississippi small business investment company or an affiliate; and

(iv) It is not a franchise of and has no financial relationship with a Mississippi small business investment company or any affiliate of a Mississippi small business investment company prior to a Mississippi small business investment company’s first qualified investment in the business.

A business classified as a qualified business at the time of the first qualified investment in the business will remain classified as a qualified business and may receive continuing qualified investments from any Mississippi small business investment company. Continuing investments will constitute qualified investments even though the business may not meet the definition of a qualified business at the time of such continuing investments; however, the business cannot fail to satisfy subparagraph (iii) and (iv) of this paragraph (i).

(j) “Qualified debt instrument” means a debt instrument issued by a Mississippi small business investment company that meets all of the following criteria:

(i) It is issued at par value or a premium;

(ii) It has an original maturity date of at least four (4) years from the date of issuance and a repayment schedule that is not faster than a level principal amortization over four (4) years; and

(iii) Has no interest or payment features that allow for the prepayment of interest or are tied to the profitability of the Mississippi small business investment company or the success of its investments.

(k) “Qualified distribution” means any distribution or payment by a Mississippi small business investment company in connection with the following:

(i) Reasonable costs and expenses of forming, syndicating and organizing the Mississippi small business investment company, including fees paid for professional services and the costs of financing and insuring the obligations of a Mississippi small business investment company, provided no such payment is made to more than one (1) participating investor or an affiliate or related party of a participating investor;

(ii) An annual management fee not to exceed two percent (2%) of designated capital on an annual basis to offset the costs and expenses of managing and operating a Mississippi small business investment company;

(iii) Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, or to the equity owners of the company resulting from the earnings or other tax liability of the company to the extent that the increase is related to the ownership, management, or operation of the company;

(iv) Reasonable and necessary fees in accordance with industry custom for ongoing professional services, including, but not limited to, legal and accounting services related to the operation of a Mississippi small business investment company, not including lobbying or governmental relations; and

(v) Payments of principal and interest to holders of qualified debt instruments issued by a Mississippi small business investment company which may be made without restriction.

(l) “Qualified investment” means the investment of money by a Mississippi small business investment company in a qualified business for the purchase of any debt, debt participation, equity, or hybrid security of any nature and description, including a debt instrument or security that has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants; provided that any debt, debt participation or other debt instrument or security shall have a maturity of at least three (3) years. Any repayment of a qualified investment prior to one (1) year from the date of issuance shall result in the amount of the qualified investment being reduced by fifty percent (50%) for purposes of the cumulative investment requirement set forth in Section 57-115-9(1)(c).

(m) “State premium tax liability” means any liability incurred by an insurance company under the provisions of Section 27-15-103, 27-15-109 or 27-15-123 or in the case of a repeal or a reduction by the state of the liability imposed by Section 27-15-103, 27-15-109 or 27-15-123.

SOURCES: Laws, 2011, ch. 524, § 2; Laws, 2012, ch. 570, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment substituted “fail to satisfy subparagraph (iii) and (iv) of this paragraph (i). for “be a business type that does not qualify” at the end of the last paragraph of (i); added (k)(v); rewrote the last sentence of (l).

§ 57-115-5. Application for small business investment credit; application for certification as small business investment company; computation of credit against investor’s state premium tax liability; allocation of tax credits.

(1)(a) The MDA must provide a standardized format for applying for the Mississippi small business investment credit authorized under this chapter, and for certification as a Mississippi small business investment company.

(b) An applicant for certification as a primary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designated capital the applicant will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be created or retained as a result of the applicant’s investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent (125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One-Hundred and Fifty Thousand Dollars (\$150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Seven Thousand Five Hundred Dollars (\$7,500.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of Five Hundred Thousand Dollars (\$500,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets; and

(iv) Have at least two (2) principals or persons, at least one (1) of which is primarily located in Mississippi, employed or engaged to manage the funds who each have a minimum of five (5) years of money management experience in the venture capital or private equity or lending industry.

(c) An applicant for certification as a secondary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designate capital the applicant will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be created or retained as a result of the applicant's investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent (\$125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One-Hundred and Fifty Thousand Dollars (\$150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of One Hundred Fifty Thousand Dollars (\$150,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets;

(iv) Demonstrate that fifty percent (50%) of all secondary investment company investments have been in Mississippi, and all of the applicant's employees have lived in Mississippi for at least two (2) years prior to the application being filed, and that those who are employed or engaged to manage the funds have a minimum of three (3) years of money management experience in the venture capital or private equity or lending industry; and

(v) Submit as part of its application a signed and notarized partnership agreement letter with a certified primary Mississippi small business investment company.

(d) The MDA may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Mississippi small business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Mississippi, has as its primary business activity the investment of cash in qualified businesses, and meets all of the criteria of this section.

(e) The MDA must:

(i) Review the organizational documents of each applicant for certification and the business history of each applicant;

(ii) Determine whether the applicant has satisfied all of the requirements of this section; and

(iii) Determine whether the officers and the board of directors, general partners, trustees, managers or members are trustworthy and are thoroughly acquainted with the requirements of this chapter.

(f) Within forty-five (45) days after the receipt of an application, the MDA may issue the certification or refuse the certification and may communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of the grounds.

(g) The MDA must begin accepting applications to become a Mississippi small business investment company not later than August 1, 2012.

(h) Certification by the MDA and operation of a primary Mississippi small business investment company is not subject to completion of any relationship or agreement with a secondary Mississippi small business investment company, and it is not the intent of this chapter to compel any such agreement.

(2)(a) An insurance company or affiliate of an insurance company must not, directly or indirectly:

(i) Beneficially own, whether through rights, options, convertible interest, or otherwise, fifteen percent (15%) or more of the voting securities or other voting ownership interest of a Mississippi small business investment company;

(ii) Manage a Mississippi small business investment company; or

(iii) Control the direction of investments for a Mississippi small business investment company.

(b) A Mississippi small business investment company may obtain one (1) or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its participating investors from any entity, except that in no case can more than one (1) participating investor of a Mississippi small business investment company on an aggregate basis with all affiliates of the participating investor, be entitled to provide guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the participating investors of a Mississippi small business investment company and its affiliates in this state.

(c) This subsection (2) does not preclude a participating investor, insurance company or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Mississippi small business investment company, in the event that a Mississippi small business investment company is in default of its statutory obligations or its contractual obligations to a participating investor, insurance company, or other party, or from monitoring a Mississippi small business investment company to ensure its compliance with this chapter or disallowing any investments that have not been approved by the MDA.

(d) The MDA may contract with an independent third party to review, investigate, and certify that the applications comply with the provisions of this chapter.

(3)(a) At the time of its investment of designated capital a participating investor shall earn a vested credit against the participating investor's state

premium tax liability in an amount equal to one hundred percent (100%) of the participating investor's investment of designated capital in a Mississippi small business investment company, subject to the limits imposed by this section. From and after January 1, 2015, a participating investor may claim the credit as follows:

- (i) For the 2015 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;
- (ii) For the 2016 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;
- (iii) For the 2017 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;
- (iv) For the 2018 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital; and
- (v) For the 2019 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital.

(b) The credit for any taxable year cannot exceed the state premium tax liability of the participating investor for the taxable year. If the amount of the credit exceeds the state premium tax liability of the participating investor for the taxable year, the excess is an investment tax credit carryover for five (5) years from the date the credit is first able to be utilized in accordance with paragraph (a) of this subsection.

(c) Notwithstanding any provision of this chapter to the contrary, the granting of any credits against the insurance premium tax shall not affect the insurance premium tax receipts distributed pursuant to Sections 83-1-37, 83-1-39, 83-34-39, 45-11-5 and 21-29-233, which shall take priority over all other distributions of premium tax receipts and shall be calculated based upon gross insurance premium tax liability before the application of the tax credits.

(d) A participating investor claiming a credit under this chapter is not required to pay any additional retaliatory tax under Section 27-15-123 levied as a result of claiming the credit.

(e) A participating investor is not required to reduce the amount of tax pursuant to the state premium tax liability included by the participating investor in connection with ratemaking for any insurance contract written in this state because of a reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(f) If the taxes paid by a participating investor with respect to its state premium tax liability constitute a credit against any other tax that is imposed by this state, the participating investor's credit against the other tax shall not be reduced by virtue of the reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(g) Final decertification of a Mississippi small business investment company under this chapter prior to such Mississippi small business investment company meeting the requirements of Section 57-115-7(1)(a)(ii), shall result in the disallowance and the recapture of all of the credits allocated to its participating investors under this chapter. Once a Mississippi

small business investment company has satisfied the requirements of Section 57-115-7(1)(a)(ii), any subsequent decertification shall not cause the disallowance or recapture of any credits allocated to its participating investors under this chapter.

(h) The credits allowed under this chapter are not transferable; however, a participating investor may transfer credits to an affiliated insurance company provided it gives prior written notice of such transfer to the MDA and the Department of Revenue.

(4)(a)(i) The aggregate amount of investment tax credits that may be allocated to all participating investors of Mississippi small business investment companies under this section shall not exceed Fifty Million Dollars (\$50,000,000.00), and no Mississippi small business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed Fifty Million Dollars (\$50,000,000.00).

(ii) The Fifty Million Dollars (\$50,000,000.00) aggregate amount of investment tax credits shall be divided into a primary tax credit pool which may be applied for by certified primary Mississippi small business investment companies and a secondary tax credit pool which may be applied for by certified secondary Mississippi small business investment companies. The secondary tax credit pool shall be Three Million Five Hundred Thousand Dollars (\$3,500,000.00) of the total Fifty Million Dollars (\$50,000,000.00) aggregate amount of investment tax credits. Secondary Mississippi small business investment companies may not apply for more than One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) worth of credits on a single application. A certified secondary Mississippi small business investment company may apply for additional tax credit allocation from the secondary tax credit pool, if the credits are available, after fifty percent (50%) of its previously allocated credits are used in qualified investments.

(iii) If there are any tax credits remaining available for allocation in the secondary tax credit pool on August 1, 2013, those available tax credits shall revert to the primary tax credit pool and be made available to primary Mississippi small business investment companies according to rules and regulations promulgated by the MDA. Prior to August 1, 2013, primary Mississippi small business investment companies, including any wholly owned subsidiary company, shall be prohibited from making application to the MDA to be additionally certified as a secondary Mississippi small business investment company and prohibited from applying for any tax credit allocation from the secondary tax credit pool. A certified primary Mississippi small business investment company may have ownership equity in a certified secondary Mississippi small business investment company, but the equity interest owned by the certified primary Mississippi small business investment company shall not exceed forty percent (40%).

(b) Credits must be allocated to investors in the order that the credit allocation claims are filed with the MDA.

(c) Any credit allocation claims filed with the MDA before the initial credit allocation claim filing date will be deemed to have been filed on the initial credit allocation claim filing date. The MDA will set the initial credit allocation claim filing date to be not less than one hundred twenty (120) days and not more than one hundred fifty (150) days after the date the MDA begins accepting applications for certification. Credit allocation claims filed on the same day with the MDA must be treated as having been filed contemporaneously.

(d) If two (2) or more Mississippi small business investment companies file credit allocation claims with the MDA on behalf of their respective participating investors on the same day and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day, then the credits shall be allocated among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one (1) participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day.

(e) Within ten (10) business days after the MDA receives a credit allocation claim filed by a Mississippi small business investment company on behalf of one or more of its participating investors, the MDA may notify the Mississippi small business investment company of the amount of credits allocated to each of the participating investors of that Mississippi small business investment company. In the event a Mississippi small business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to the participating investor within ten (10) business days of the Mississippi small business investment company's receipt of notice of allocation, then it shall notify the MDA on or before the next business day, and the credits allocated to the participating investor of the Mississippi small business investment company will be forfeited. The MDA may then reallocate those forfeited credits among the participating investors of the other Mississippi small business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors. The MDA may levy a fine of not more than Fifty Thousand Dollars (\$50,000.00) on any participating investor that does not invest the full amount of designated capital required to fund the credits allocated to it by the MDA in accordance with the credit allocation claim filed on its behalf.

(f) No participating investor, on an aggregate basis with its affiliates, may file an allocation claim for more than twenty-five percent (25%) of the maximum amount of investment tax credits authorized under this subsection (4), regardless of whether the claim is made in connection with one or more Mississippi small business investment companies.

SOURCES: Laws, 2011, ch. 524, § 3; Laws, 2012, ch. 570, § 2, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment rewrote (1)(b), (c) and (3)(a), (g) and (h); in (b) substituted “first able to be utilized in accordance with Section 57-115-5 (3)(a)” for “earned” at the end; and added the last sentence in (4)(c) and added (d).

§ 57-115-7. Requirements for maintaining certification as small business investment company; reports; distributions.

(1)(a) To maintain its certification, a Mississippi small business investment company must make qualified investments as follows:

(i) Within two (2) years after the allocation date, a Mississippi small business investment company must invest an amount equal to at least thirty-five percent (35%) of its designated capital in qualified investments; and

(ii) Within four (4) years after the allocation date, a Mississippi small business investment company must invest an amount equal to at least fifty percent (50%) of its designated capital in qualified investments.

(b) Before making a proposed qualified investment in a specific business, a Mississippi small business investment company must request from the MDA a written determination that the proposed investment will qualify as a qualified investment in a qualified business and comply with the Mississippi small business investment company's business plan previously approved by the MDA. The MDA must notify a Mississippi small business investment company within ten (10) business days from the receipt of a request of its determination and an explanation thereof. If the MDA determines that the proposed investment does not meet the definition of a qualified investment, qualified business or comply with the Mississippi small business investment company's business plan, the MDA may nevertheless consider the proposed investment a qualified investment or a qualified business if the MDA determines that the proposed investment will further economic development. A Mississippi small business investment company may at any time apply to the MDA to amend its business plan, which the MDA may approve if it determines that the proposed amendment will further economic development in the state.

(c) All designated capital not invested in qualified investments by a Mississippi small business investment company shall be held or invested in the manner the Mississippi small business investment company deems appropriate within the limits of this chapter. Designated capital and proceeds of designated capital returned to a Mississippi small business investment company after being originally invested in qualified investments may be invested in additional qualified investments and the investment shall count toward the requirements of paragraph (a) of this subsection (1) and of Section 57-115-9(1)(c) with respect to making investments of designated capital in qualified investments, provided that the qualified business returning the initial qualified investment of the designated capital;

(i) Returns the capital pursuant to regularly scheduled amortization payments;

(ii) Returns the capital after a change in control or sale of the company or substantially all of its assets;

(iii) Returns the capital to the Mississippi small business investment company after defaulting on the terms of the qualified investment; or

(iv) Has attracted follow-on investment equal to the amount returned to the Mississippi small business investment company from a source other than a Mississippi small business investment company.

(d)(i) If, within five (5) years after its allocation date, a Mississippi small business investment company has no longer invested at least eighty-five percent (85%) of its designated capital in qualified investments, the Mississippi small business investment company shall not be permitted to pay management fees until it has invested such amount of designated capital in qualified investments.

(ii) If within seven (7) years after its allocation date, a Mississippi small business investment company has not invested at least one hundred percent (100%) of its designated capital in qualified investments, the Mississippi small business investment company shall not be permitted to pay management fees.

(2)(a) Each Mississippi small business investment company must report the following to the MDA and the Department of Revenue:

(i) As soon as practicable after the receipt of designated capital:

1. The name of each participating investor from which the designated capital was received, and each participating investor's affiliates that may claim credits, including the insurance tax identification number of the participating investor and its affiliates, if any;

2. The amount of each participating investor's investment of designated capital; and

3. The date on which the designated capital was received;

(ii) On an annual basis, on or before January 31 of each year:

1. The amount of the Mississippi small business investment company's designated capital that remains to be invested in qualified investments at the end of the immediately preceding taxable year;

2. Whether or not the Mississippi small business investment company has invested more than fifteen percent (15%) of its total designated capital in any one (1) qualified business;

3. All qualified investments that the Mississippi small business investment company has made in the previous taxable year, including the number of employees of each qualified business in which it has made investments at the time of the investment and as of December 1 of the preceding taxable year;

4. For any qualified business where the Mississippi small business investment company no longer has an investment, the Mississippi small business investment company must provide employment figures for that business as of the last day before the investment was terminated;

(iii) Other information that the MDA and/or the Department of Revenue may reasonably request that will help the MDA ascertain the impact of the Mississippi small business investment company program both directly and indirectly on the economy of the State of Mississippi including, but not limited to, the number of jobs created by qualified businesses that have received qualified investments; and

(iv) Within ninety (90) days after the close of its fiscal year, annual audited financial statements of the Mississippi small business investment company, which must include the opinion of an independent certified public accountant.

(b) A Mississippi small business investment company must pay to the MDA an annual, nonrefundable certification fee of Two Thousand Five Hundred Dollars (\$2,500.00) on or before April 1, or Five Thousand Dollars (\$5,000.00) if later. However, no annual certification fee is required if the payment date for the fee is within six (6) months of the date a Mississippi small business investment company is first certified by the MDA.

(c) Upon satisfying the requirements of subsection (1)(a)(ii) of this section, a Mississippi small business investment company shall provide notice of the satisfaction to the MDA, and the MDA shall, within sixty (60) days of receipt of the notice, either confirm that the Mississippi small business investment company has satisfied the requirements of subsection (1)(a)(ii) of this section as of that date or provide notice of noncompliance and an explanation of any existing deficiencies.

(3)(a) A Mississippi small business investment company may make qualified distributions at any time. In order for a Mississippi small business investment company to make a distribution other than a qualified distribution to its equity holders:

(i) The qualified investments of the Mississippi small business investment company must equal or exceed one hundred percent (100%) of its designated capital; and

(ii) The Mississippi small business investment company must attract follow-on investment from sources other than itself or another Mississippi small business investment company in the qualified businesses in which it made qualified investments equal to one hundred percent (100%) of its designated capital.

(b) For all distributions other than qualified distributions, if the Mississippi small business investment company has not met or exceeded the jobs creation goal agreed to by the MDA and the Mississippi small business investment company in its application, the Mississippi small business investment company shall pay all such distributions to the state as a fee until the Mississippi small business investment company has paid to the state an amount equal to the penalty amount. For purposes of this section, the penalty amount shall equal one percent (1%) of the cumulative management fees previously paid by the Mississippi small business investment company for every one percent (1%) by which a Mississippi small business investment company fails to meet the jobs creation goal agreed to by the

MDA and the Mississippi small business investment company in its application.

SOURCES: Laws, 2011, ch. 524, § 4; Laws, 2012, ch. 570, § 3, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment substituted “thirty-five percent (35%)” for “fifty percent (50%)” in (1)(a)(i); substituted “fifty percent (50%)” for eight-five percent (85%)” in (1)(a)(ii); rewrote (1)(b) and (c); added “until it has invested such amount of designated capital in qualified investments” at the end of (1)(d)(i); added (3)(a)(ii) and (b); and made minor stylistic changes.

§ 57-115-9. Annual review of small business investment companies; grounds for decertification; registration of investments for which tax credits are awarded; annual report by MDA; report contents.

(1)(a) The MDA, or at its discretion the department, shall conduct an annual review of each Mississippi small business investment company to determine if a Mississippi small business investment company is abiding by the requirements of certification and to ensure that no investment has been made in violation this chapter. The cost of the annual review must be paid by each Mississippi small business investment company according to a reasonable fee schedule adopted by the MDA and/or the department. In the event the department conducts the annual review, the department shall provide copies of the review to the MDA. The MDA shall provide copies of each Mississippi small business investment company’s annual review to the Mississippi small business investment company reviewed.

(b) Any material violation of this chapter, including any material misrepresentation made to the MDA in connection with the application process, may be grounds for decertification of a Mississippi small business investment company and the disallowance of credits under this chapter, provided that in all instances the MDA shall provide notice to the Mississippi small business investment company of the grounds of the proposed decertification. The Mississippi small business investment company shall have at least one hundred twenty (120) days from receipt of notice from the MDA to remedy any violation before the decertification becomes effective.

(c) After a Mississippi small business investment company has invested an amount cumulatively equal to one hundred percent (100%) of its designated capital in qualified investments, provided that the Mississippi small business investment company has met all other requirements under this chapter as of that date, the Mississippi small business investment company shall no longer be subject to regulation by the MDA or the department or the reporting requirements under Section 57-115-7(2). Upon receiving certification by a Mississippi small business investment company that it has invested an amount equal to one hundred percent (100%) of its designated capital, the MDA must notify a Mississippi small business investment

company within sixty (60) days that it has or has not met the requirements, with a reason for the determination if it has not met the requirements.

(d) The MDA must send written notice of any decertification proceedings to the Department of Revenue, the department, and to the address of each participating investor whose tax credit may be subject to recapture or forfeiture, using the address shown on the last filing submitted to the MDA.

(2) All investments by participating investors for which tax credits are awarded under this chapter must be registered or specifically exempt from registration.

(3) After January 1, 2015, the MDA must make an annual report to the Governor, the Chairman of the House Ways and Means Committee and Chairman of the Senate Finance Committee. The report must include:

(a) The number of Mississippi small business investment companies holding designated capital;

(b) The amount of designated capital invested in each Mississippi small business investment company;

(c) The cumulative amount that each Mississippi small business investment company has invested as of January 1, 2015, and the cumulative total each year thereafter;

(d) The cumulative amount of follow-on capital that the investments of each Mississippi small business investment company have created in terms of capital invested in qualified businesses at the same time or subsequent to investments made by a Mississippi small business investment company in the businesses by sources other than a Mississippi small business investment company;

(e) The total amount of investment tax credits applied for and allocated under this chapter for each year;

(f) The performance of each Mississippi small business investment company with regard to the requirements for continued certification;

(g) The classification of the companies in which each Mississippi small business investment company has invested according to industrial sector and size of company;

(h) The gross number of jobs created by investments made by each Mississippi small business investment company and the number of jobs retained;

(i) The location of the companies in which each Mississippi small business investment company has invested;

(j) Those Mississippi small business investment companies that have been decertified, including the reasons for decertification; and

(k) Other related information necessary to evaluate the effect of this chapter on economic development.

SOURCES: Laws, 2011, ch. 524, § 5; Laws, 2012, ch. 570, § 4, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added “After January 1, 2015” to the beginning of (3); and substituted “2015” for “2013” in (3)(c).

§ 57-115-11. Rules and regulations for implementation of chapter.

The MDA and the department each may promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this chapter.

SOURCES: Laws, 2011, ch. 524, § 6, eff from and after July 1, 2011.

Cross References — Administrative Procedures Law, see §§ 25-43-1.101 et seq.

CHAPTER 117**Mississippi Health Care Industry Zone Act [Repealed effective July 1, 2022]****SEC.**

- 57-117-1. Short title [Repealed effective July 1, 2022].
- 57-117-3. Definitions [Repealed effective July 1, 2022].
- 57-117-5. Health care industry zone requirements [Repealed effective July 1, 2022].
- 57-117-7. Certification of businesses and health care industry facilities as qualified business; exemption from certain taxes; other tax benefits [Repealed effective July 1, 2022].
- 57-117-9. Revocation of health care industry zone certification [Repealed effective July 1, 2022].
- 57-117-11. Repeal of Sections 57-117-1 through 57-117-11 [Repealed effective July 1, 2022].

§ 57-117-1. Short title [Repealed effective July 1, 2022].

This chapter shall be known and may be cited as the “Mississippi Health Care Industry Zone Act.”

SOURCES: Laws, 2012, ch. 520, § 1, eff from and after July 1, 2012.

Editor’s Note — For repeal of this section, see § 57-117-11.

§ 57-117-3. Definitions [Repealed effective July 1, 2022].

In this chapter:

(a) “Health care industry facility” means:

(i) A business engaged in the research and development of pharmaceuticals, biologics, biotechnology, diagnostic imaging, medical supplies, medical equipment or medicine and related manufacturing or processing, medical service providers, medical product distribution, or laboratory testing that creates a minimum of twenty-five (25) new full-time jobs and/or Ten Million Dollars (\$10,000,000.00) of capital investment after July 1, 2012; or

(ii) A business that (a) is located on land owned by or leased from an academic health science center with a medical school accredited by the

Liaison Committee on Medical Education and a hospital accredited by the Joint Committee on Accreditation of Healthcare Organizations and (b) creates a minimum of twenty-five (25) new jobs and/or Twenty Million Dollars (\$20,000,000.00) of capital investment after July 1, 2012.

(b) “MDA” means the Mississippi Development Authority.

(c) “Health care industry zone” means a geographical area certified by the MDA as provided for in Section 57-117-5.

(d) “Local government unit” means any county or incorporated city, town or village in the State of Mississippi.

(e) “Person” means a natural person, partnership, limited liability company, association, corporation, business trust or other business entity.

(f) “Qualified business” means a business or health care industry facility that meets the requirements of Section 57-117-7 and any other requirements of this chapter.

SOURCES: Laws, 2012, ch. 520, § 2; Laws, 2013, ch. 505, § 1, eff from and after July 1, 2013.

Editor’s Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted the “(i)” designator in (a) and added (a)(ii), and made related changes.

§ 57-117-5. Health care industry zone requirements [Repealed effective July 1, 2022].

(1) The MDA may certify an area as a health care industry zone if the following requirements are met:

(a) The area is located within:

(i) Three (3) contiguous counties which have certificates of need of more than three hundred seventy-five (375) acute care hospital beds; and/or

(ii) A county which has a hospital with a minimum capital investment of Two Hundred Fifty Million Dollars (\$250,000,000.00) and for which construction is completed before July 1, 2017;

(b) The health care industry facility is located within a five-mile radius of:

(i) A facility with a certificate of need for hospital beds; and/or

(ii) A university or college that is:

1. Accredited by the Southern Association of Colleges and Schools and awards degrees and/or trains workers for jobs in health care or pharmaceutical fields of study and/or work, and

2. Located along or near Mississippi Highway 67 within a master planned community as defined in Section 19-5-10; and

(c) The zoning of the local government unit, if applicable, allows the construction or operation in the proposed health care industry zone of the health care industry facility.

(2) A health care industry facility that engages in an activity for which a certificate of need is required must comply with the provisions of Section 41-7-191 in order to be certified as a qualified business.

(3) The MDA may adopt and promulgate such rules and regulations, in compliance with the Mississippi Administrative Procedures Law, as are necessary for the efficient and effective administration of this section in keeping with the purposes for which it is enacted.

SOURCES: Laws, 2012, ch. 520, § 3; Laws, 2013, ch. 505, § 2, eff from and after July 1, 2013.

Editor's Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted the (1)(b)(i) designator and added (1)(b)(ii); inserted “if applicable” following “the local government unit” in (1)(c); added (2) and renumbered former (2) as (3); and made minor stylistic changes.

§ 57-117-7. Certification of businesses and health care industry facilities as qualified business; exemption from certain taxes; other tax benefits [Repealed effective July 1, 2022].

(1) Businesses and health care industry facilities shall apply to the MDA for certification as a qualified business. If the health care industry facility or business is located in a health care industry zone and meets the requirements of this chapter, the MDA shall certify it as a qualified business.

(2) A health care industry facility or business certified by the MDA as a qualified business within a health care industry zone that constructs or renovates a health care industry facility within a health care industry zone shall qualify for the following:

(a) An accelerated state income tax depreciation deduction. The accelerated depreciation deduction shall be computed by accelerating depreciation period required by Mississippi Administrative Code, to a ten-year depreciation period.

(b) A sales tax exemption as authorized in Section 27-65-101(pp).

(c) A fee-in-lieu of taxes as authorized in Section 27-31-104.

(d) An ad valorem tax exemption as authorized in Section 27-31-101.

SOURCES: Laws, 2012, ch. 520, § 4; Laws, 2013, ch. 505, § 3, eff from and after July 1, 2013.

Editor's Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted “industry” preceding “facility within a health care industry zone” in (2).

§ 57-117-9. Revocation of health care industry zone certification [Repealed effective July 1, 2022].

If the qualified business has not created the requisite number of jobs required by this chapter, the health care industry zone certification may be revoked by MDA after five (5) years have elapsed from the effective date of

certification. A revocation under this section shall not act retroactively to remove any incentives granted by this chapter.

SOURCES: Laws, 2012, ch. 520, § 5, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 57-117-11.

**§ 57-117-11. Repeal of Sections 57-117-1 through 57-117-11
[Repealed effective July 1, 2022].**

Sections 57-117-1 through 57-117-11 shall be repealed from and after July 1, 2022.

SOURCES: Laws, 2012, ch. 520, § 6, eff from and after July 1, 2012.

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